

UNITED NATIONS  
AND THE  
NON-SELF-GOVERNING TERRITORIES

# UNITED NATIONS AND THE NON-SELF-GOVERNING TERRITORIES

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**Kranti and Kumar**

**with affection and gratitude**





## FOREWORD

Since the Second World War——and, in large part, because of developments initiated by that titanic conflict——the international system has undergone a multitude of changes of such basic importance as to constitute an unprecedented transformation of the system. Not the least significant of these alterations, which are intimately related to each other, is the rapid disintegration of colonial empires, or, to put it positively, the effectuation of the principle of national self-determination on a broader scale and at a faster pace than either friend or foe of this movement could reasonably have expected. Decolonization has drastically altered the political map of the world and introduced new factors into international relations whose ultimate impact no man can fully foresee.

It would be incorrect to suggest either that the framers of the United Nations Charter clearly anticipated this phenomenal development in the colonial field or that the institutional mechanism which they devised has functioned as the decisive element in the promotion, or the control and direction, of the decolonization process. Nonetheless, it is fair to say that the Charter drafted in 1945 was an exceptionally forward-looking document in that it gave significant emphasis to the problem of assisting non-self-governing peoples to transcend colonial status; if it did not precisely express the prediction of accelerated decolonization, it did envisage intensive preparation for that process. Moreover, the United Nations has been constantly and influentially involved in the handling of colonial issues. While these matters are not susceptible to precise measurement, it is clear that the United Nations has substantially affected the movement toward the liquidation of colonialism——and, even more, that the latter has had a major impact upon the development and functioning of the United Nations.

Given the striking importance of the relationship between the United Nations and the decolonization movement, it is essential that scholars should investigate every aspect of that relationship, to provide the fullest possible understanding of the way in which the world organization has been involved in this extraordinarily significant political phenomenon of our time. Those who seek that understanding will welcome the publication of Dr. Sud's study,

first undertaken as a doctoral dissertation at the University of Michigan. In examining the development of the role of the Committee on Information from Non-Self-Governing Territories, Dr. Sud provides an important segment of the larger analysis that will enable us to comprehend the fascinating drama of the United Nations and colonialism.

Inis L. Claude, Jr.  
Professor of Political Science  
The University of Michigan

## **Preface**

This book is a revised version of a Ph. D. dissertation written at the University of Michigan, Ann Arbor, Michigan, U. S. A., in 1961.

The purpose of this book is to introduce the reader to the provisions of Chapter XI of the United Nations Charter, which deals with non-self-governing territories, and its subsequent elaboration. However, since the final wording of Chapter XI reflects the negotiations and compromises which the framers of the United Nations Charter sought, and finally succeeded in attaining, I have started the study from 1943, and traced the process of drafting of this particular Chapter and the negotiations preceding it. The period 1946-59 is crucial in the process of evolution of the meaning of this Chapter because in this period, through General Assembly resolutions, the skeleton of Chapter XI became alive; and elaboration was given to every word and phrase of this particular Chapter, without resorting to any legal amendments. In the process of analyzing and recording several General Assembly resolutions which have elaborated on the provisions of Chapter XI, this study brings out the interaction between the different members of the United Nations on this particular question and tries to account for their differing attitudes towards this problem of non-self-governing territories.

The question of non-self-governing territories is no longer as heated and urgent as it was some five years ago. With the speedy decolonization of many African territories in recent years, the situation has eased, but a lot yet remains to be done. The day when all the non-self-governing territories would become self-governing does not seem to be too distant, but as is evident from the case of the Congo, the United Nations responsibility towards non-self-governing territories does not cease with their attainment of self-government. As a matter of fact, the United Nations is now called upon to take a more active and important role in the life of the newly independent nations. Except the British territories in Africa, the indigenous inhabitants of no other African territories have been trained in administration and, consequently, independence oftentimes brings instability and turmoil. The membership of the United Nations, besides adding to the prestige of the newly independent

nations, gives them a world forum in which they can make their voices heard and thus gain stability. It also affords them the opportunity of getting acquainted with democratic procedures and practices.

Thus, while one phase of the United Nations responsibility towards non-self-governing territories is coming to its close, we are witnessing the beginning of another. However, the two phases are different, since the latter phase deals with newly independent nations rather than non-self-governing territories.

My work cannot be regarded as the final work in this field because since the writing of this book tremendous changes have taken place in the non-self-governing territories, and the United Nations has played an increasingly important role. However, the issues involved are very poignant and merit separate attention. I intend to write another book in the near future, dealing with the subject of non-self-governing territories. However, since I feel that the later developments can be understood only in the present context, this book deals with the formative period, as well as the initial actions of the United Nations regarding the non-self-governing territories, and I hope it would equip those interested in the field to probe further into this problem.

I am deeply indebted to Late Pandit Jawaharlal Nehru, for I must admit that my early interest in the problem of non-self-governing territories stems from my association with the Nehru family since 1941 and with Pandit Jawaharlal Nehru himself. A few days before my departure for America, as a Fulbright exchange visitor in 1957, I had the good fortune of meeting and discussing my plans with late Panditji. I acknowledge with deep gratitude the inspiration and help which he gave me at that time. I met him several times since my return to India in 1962. In October 1962, he advised me to publish my work in the form of a book. It is extremely sad that owing to other preoccupations I could not get it published while he was amongst us. His unending efforts to expedite the decolonization process of non-self-governing territories are well known, and I hope my work does justice in depicting India's role in this particular process.

I must express my gratitude to Professor Inis L. Claude, Jr. of the University of Michigan, Ann Arbor, U. S. A., who guided my early efforts of research in this field and whose later suggestions

were also very useful. Grateful acknowledgement is due to Professor Harold Karan Jacobson of the University of Michigan, who gave me much of his time, and without whose help I could not have completed this work. Professor William J. Gedney of the University of Michigan Department of English Language was kind enough to give me suggestions regarding style. Professors Willard Hogan and John Agar initiated me into the field of International Organization. Some others of the University of Michigan Political Science Department were very helpful and I feel that I must express my gratitude to Professor Robert I. Crane of Duke University, Professor Russell H. Fiefield and Robert E. Ward of the University of Michigan and Richard L. Park, currently Dean of the Department of Political Science at the University of Pittsburgh, Pennsylvania. Mrs. Arthur Poiner of Ann Arbor, Michigan and her husband Arthur E. Poiner of the Detroit Free Press helped me edit the manuscript and I am very grateful to them. Mr. A. S. Hebbar of the Indian School of International Studies helped me in reading the proofs and I am extremely grateful to him.

Mrs. Fanniebelle Malan and Mr. Harris C. Malan of the Houghton Mifflin Company are two of my friends, whose kindnesses and affection throughout our stay in America is something I shall always treasure. Theirs was a home which offered us sympathy and understanding. Mrs. Malan helped me in innumerable ways while I was caught between my academic pursuits and the duties of a house-wife and mother. To them I owe the greatest gratitude, and feel that no words are sufficient to express my thanks to them.

My husband Kranti Kumar Sud is first in my thoughts but last to be mentioned as one who bore with me while I was engaged in this study as well as later when I revised it for publication. His encouragement and patience have greatly helped me in completing and publishing this work.

The ideas expressed in this book are entirely my own, and no one else mentioned is responsible for them.

New Delhi



## • Table of Contents

<i>Foreword</i>	vii
<i>Preface</i>	ix
<b>Chapter</b>	
<b>I. Introduction</b>	1
<b>II. Constitutional Background</b>	5
Development Prior to 1945	5
The Dumbarton Oaks Conference	11
The United Nations Conference on International Organization	13
Vague Requirements Set Out in Article 73e	22
<b>III. The Creation, Continuation and Composition of the Committee on Information From Non-Self-Governing Territories</b>	24
Arguments about the Creation and Existence of the Committee	24
Deliberations on the Continuation of the Committee	30
1949 Discussion on the Continuation of the Committee	34
The 1952 Discussion Regarding the Continuation of the Committee	36
1955 Discussions Regarding the Continuation of the Committee	40
1958 Discussions about the Extension of the Committee's Existence	42
Issues Regarding the Composition of the Committee	46
Functional Experts	52
<b>IV. Political Information</b>	55
The Demand for Political Information	55
Other Issues Related to the Transmission of Political Information	71
<b>V. Competence of the Committee on Information</b>	76
The Standard Form	77
Regional Recommendations	86



The Right to Send Visiting Missions	90
The Right to Hear Petitions From Non-Self-Governing Territories	92
<b>VI. The United Nations' Attempt to Define Non-Self-Governing Territories 1946-1959</b>	96
Discussion Relating to the Study of Factors in 1949	99
Problems Relating to the Study of Factors in 1951	102
Study of Factors in 1951-1952	103
Consideration of Factors in 1952	111
Belgian Thesis	117
Study of Factors in 1953	122
Portugal and Spain.	131
<b>VII. Cessation of Information</b>	143
The Netherlands Antilles and Surinam	150
Puerto Rico	157
Greenland	161
Alaska and Hawaii	163
Procedure for the Examination of Communications Regarding Cessation of Information	165
<b>VIII. Conclusion</b>	173
Postscript	184
Appendices	
A. Membership Chart of the Committee on Information From Non-Self-Governing Territories 1946-59	189
B. Original List of Non-Self-Governing Territories Submitted in 1946	191
C. List of Factors Annexed to Assembly Resolution 567(VI)	194
List of Factors Annexed to Assembly Resolution 648(VII)	199
List of Factors Annexed to Assembly Resolution 742(VIII)	204
<b>Abbreviations</b>	211
<b>Bibliography</b>	213
<b>Index</b>	217

## **CHAPTER I**

### **Introduction**

**The object of this study is to trace the development of Chapter XI, of the United Nations Charter, the "Declaration regarding Non-Self-Governing Territories." Few sections of the Charter have roused as much controversy as this Chapter.**

**It consists of only two articles. Article 73 states that:**

**"Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-Government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present charter, the wellbeing of the inhabitants of these territories and to this end :**

- a. to insure, with due respect for the culture of the peoples concerned, their political, economic, social and educational advancement, their just treatment, and their protection against abuses ;**
- b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement ;**
- c. to further international peace and security ;**
- d. to promote constructive measures of development, to encourage research and co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article ; and**

- e. to transmit regularly to the Secretary General for information purposes subject to such limitations as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply."

**Article 74 :**

"Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good neighbourliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters."

This Chapter was included in the Charter primarily as a declaration of intent. The only precise obligation contained in the two articles was that listed in subparagraph "c", and even this commitment was rather vague.

There was a clear distinction in the Charter between Chapter XI and Chapter XII and XIII, which established the international trusteeship system. Chapter XI applied to all non-self-governing territories ; the other two chapters apply only to specific territories which were voluntarily put under the trusteeship system. In practice only former mandated territories of the League of Nations or territories which were detached from enemy states during the Second World War have been put under trusteeship. However, the two chapters established an elaborate mechanism for the international supervision of such territories.

The core of this system is the Trusteeship Council, a principal organ of the United Nations. The Council is composed of all United Nations Member States which administer Trust Territories, the permanent members of the Security Council, which do not administer Trust Territories, and a sufficient number of elected members so that there is a balance between the administering and non-administering states. The Trusteeship Council has wide powers and functions. The Council has the authority to formulate a *questionnaire*, on which the administering states must base their annual reports. It is empowered to receive and consider petitions

from individuals and groups in the Trust Territories. It can dispatch Visiting Missions to examine conditions in the Trust Territories.

\* In contrast the Charter provides no special machinery for implementing the provisions of Chapter XI. The difference between Chapters XI and XII and XIII was intentional. At the San Francisco Conference the administering powers were willing to agree to the establishment of international supervision for those territories which might be placed under trusteeship, but they were not willing to have such supervision applied automatically to all territories. The provisions of Chapter XI were as much as they were willing to accept at that time. The administering powers were to submit certain categories of information regarding their non-self-governing territories. However, no specific machinery was provided for receiving this information. The Charter was silent regarding the time and frequency with which the information was to be submitted. There was no provision by which the transmission of this information could be made obligatory on the powers submitting it. Furthermore, Chapter XI did not give any definition of non-self-governing territories.

From the outset there has been pressure in the United Nations to give a broad interpretation to the provisions of Chapter XI and in a sense to obliterate the distinction between Chapter XI and Chapter XII and XIII. Some states have resisted this pressure. This study is an analysis of the resulting interaction. It is an attempt to examine the interpretation which has been given to Chapter XI and the processes through which the interpretation has been developed.

A consideration of the drafting of the Charter is a necessary starting point for such an analysis. It is essential to consider the intentions of the framers of the Charter and their interpretation of the text which they adopted. Since Chapter XI has been given meaning through a series of General Assembly resolutions, the primary focus of the analysis must be these resolutions and the debates concerning them in the Assembly and its subsidiary bodies. The issues around which these debates centred were, should there be a committee? Should it be permanent? What it should do? Should it receive political information? To what territories does the Chapter apply? Who should decide when the transmission of information on non-self-governing territories could be stopped? What should be the procedure for cessation of information?

Through such an analysis it should be possible to gain some

understanding of the extent to which the difference between Chapter XI and Chapters XII and XIII have been narrowed and the processes through which this has been achieved. Since in addition to inciting controversy, the process of interpretation of Chapter XI has also considerably broadened the field of the United Nations activities, a detailed consideration of these matters should contribute to the store of knowledge about this part of the record of the United Nations.

## **CHAPTER II**

### **Constitutional Background**

This chapter will analyze the constitutional background of chapter XI and the factors contributing to its ambiguity. This chapter was the product of prolonged diplomatic negotiations, discussions and debates between the sponsoring nations, namely Great Britain, China, the United States and the Union of Soviet Socialist Republics. The provisions of Chapter XI reflect the attitudes of the different nations regarding this particular Chapter.

Article 73 of Chapter XI is the most important part of this Chapter. This article is loaded with ambiguous terms and phrases. Consequently it was relatively easy to transform Chapter XI, in an effort to elaborate the ambiguities of this Chapter.

#### **Development Prior to 1945**

The Peace Treaties of 1919 had marked the opening of a new era in colonial history, and particularly a radical change in the conception of the functions and duties of colony owning countries. The new outlook found its chief expression in the mandates system of the League of Nations which whatever its limitations does proclaim a break with the old idea that a power may treat its colonies as it desires.<sup>1</sup>

In spite of mandates system being applied only to the enemy territories, it has a very great significance, as it was the first recognition of some general doctrine of trusteeship in respect to non-self-governing territories in general. The dependent territories of the mandatory powers were not subject to the international accountability established by the mandates system of the League of Nations. Yet the mandates system strengthened a sense of responsibility of colonial powers for the progress of dependent peoples.<sup>2</sup>

Chapters XI XII and XIII of the United Nations Charter are

influenced by Articles 22 and 23b of the League of Nations Covenant. The mandates system of the League provided the precedent on which the trusteeship provisions of the United Nations Charter were based. Both Chapters XII and XIII voice the same ideas as were evident from Article 22 of the League of Nations Covenant. The United Nations Charter has tried to eliminate the shortcomings of the mandates system of the League of Nations, by making the Trusteeship applicable not only to ex-enemy colonies and previous mandates, but also to such dependent territories as may be placed under the system by agreements. The United Nations Charter also provides for a specific organ to deal with Trusteeship, thus establishing a better and regular system of international supervision and accountability. Visiting Missions are provided for to be sent to the Trust Territories by the United Nations, but only after consultation with the administering authority.

Besides the mandates system, there was another provision of the League Covenant which has found a place in the United Nations Charter. This reflects the concern of the world community for the non-self-governing territories. Article 23b of the Covenant of the League reflected the international concern for the welfare of the people in all dependencies and not only of the mandates. In this respect it provides precedent for the declaration regarding non-self-governing territories which forms Chapter XI of the United Nations Charter.<sup>3</sup> The approach of the League was functional and it was mainly concerned with the educational, social and economic conditions of the colonies. The mandatory powers were entrusted with the task of understaking to secure the just treatment of inhabitants of territories under their control. The United Nations Charter, however, evinced a much more extensive interest in the fate of non-self-governing territories.<sup>4</sup>

By the spring of 1941 the Allies were relieved to think that the Axis victory was not imminent. However, the destruction and long drawn struggle which the world had experienced made them desirous of peace, and they wanted it to be a peace which would last. This in turn contributed in strengthening the resolve to set up a world organization, which would pave the way to peace and understanding

between nations. According to Mr. Sumner Welles one of the principal causes of failure of the League was its inability to bring about "peaceful and equitable adjustments between nations."<sup>5</sup> This comment brought to the surface one of the chief causes of unrest in the world. It voiced the concern which prevailed in Allied circles regarding the non-self-governing peoples of the world. It seemed to be an admission that unless this concern was expressed in concrete form the fact that there were millions of non-self-governing peoples would constitute a threat to the peace which was desired by all. Since this comment referred to one of the contributing causes of the failure of the League of Nations, the desire to eradicate this evil and establish a long lasting peace was natural. It prompted President Roosevelt to use the Atlantic meeting with Churchill for the purpose of discussing some of the problems of the post-war world. Roosevelt expressed to Churchill his desire to issue a joint declaration, stating the broad principles which should guide the policies of the United States and Great Britain in the future. Churchill agreed to this suggestion and prepared a draft. This draft had eight points in all. The third point referred to non-self-governing territories ; its text implied a general concern for these people. It declared that the United States and Great Britain respected the right of all peoples to choose the form of Government under which they desired to live.<sup>6</sup> The joint declaration was signed on August 11, 1941, and is known as the "Atlantic Charter."

Subsequently, at an inter-Allied meeting in London on September 24, 1941, the British Dominions, the European Governments in Exile, and the Soviet Union adhered to this joint declaration and pledged their co-operation in giving effect to its principles.

Within a year of the declaration of the Atlantic Charter it became evident that the United Kingdom and the United States had different interpretations of the declaration. Before Roosevelt could send the anniversary message to commemorate the signing of the Atlantic Charter, the British Prime Minister cabled to Roosevelt, saying that it was hoped that the wording of the Atlantic



Charter would not be given any broader interpretation, since the text had been decided upon after long discussions between Churchill and Roosevelt. Churchill thought that the application of the provisions of point three of the Atlantic Charter to Asia and Africa required careful consideration.<sup>7</sup>

The United States was not prepared to agree to this restricted interpretation of the Atlantic Charter but to avoid controversy with the British, the presidential message marking the anniversary of the signing of the Atlantic Charter on August 14, 1942, did not go into the question of interpretation.<sup>7</sup>

Due to the differences in the attitudes of the Allied Powers towards a general post-war policy commitment to non-self-governing peoples, the Department of State worked on several proposals, and finally, prepared a modified proposal. This proposal was sent by Secretary of State Hull to the President in November, 1942. In a covering memorandum the Secretary pointed out three possible approaches: first to place all dependent areas under international administration and control; second to place under international supervision the League Mandates and any other areas detached from the enemy as the result of the current war, provide for the non self-governing territories administered by other States to be placed under the authority of the international agency, subsequently; and thirdly to place the mandates and detached enemy territories under international trusteeship but simply request the Allied imperial powers to pledge their intention of observing certain principles and standards of colonial administration, without any necessary change in the political status of their dependencies<sup>8</sup>.

Hull accompanied the memorandum with a draft declaration entitled "The Atlantic Charter and National Independence."<sup>9</sup> This was recommended by him as the most practical if it received the approval of the other three major powers. Some time later the Department of State prepared a new draft in which it incorporated this proposal and included some ideas from a British proposal. This

new draft was sent to President Roosevelt in March, 1943, to be used as the basis for international discussions.

In the preliminary stages of the drafting of the United Nations Charter Great Britain opposed all the proposals which specifically related to non-self-governing territories. The British felt that the inclusion of specific provisions regarding this subject might threaten their control over their colonies and protectorates, and might endanger the British possessions. Thus the British Prime Minister Mr. Winston Churchill evinced a great reluctance to accept the United States proposals regarding the inclusion of a separate chapter on non-self-governing territories. The United States, however, was determined on this point. This was probably the result of its anti-colonial tradition, as well as the acceptance of the necessity for the United Nations to recognize the interests of the non-self-governing territories as important, and thus grant them a special place in the Charter. The British opposition was one factor which caused the United States to change and reword the proposals regarding non-self governing territories.

The British opposition, however, was not the only cause which made the United States modify its official proposals. There were differences within its own government departments. The State Department was active in pushing through certain specific proposals regarding the non-self-governing territories. The American Military Departments on the contrary were eager that this question should not be discussed in the preliminary stages of the formation of the United Nations. They wanted the territorial dispositions to be postponed until the complete termination of hostilities. This attitude of the Military departments was prompted by their interest in gaining control for the United States over the Japanese mandated islands.<sup>10</sup> However, they did not want to introduce this question in the initial stages of the United Nations Planning, since there was the likelihood of the Union of Soviet Socialist Republics and others demanding similar dependent territories as their trusts.<sup>11</sup>

The State Department submitted a proposal to President Roosevelt in March, 1943, titled "Declaration by the United Nations

on National Independence." The substance of this proposal was based on earlier American proposals and some ideas from the British proposal. It proposed that this declaration should be finally issued on behalf of all the United Nations,... "thus acknowledging their duty and purpose" to help dependent peoples to become "qualified for independent national status."<sup>12</sup> The proposed declaration if accepted by the United Nations "...would require governments responsible for the future of colonial peoples to adopt five procedures : (1) Give them protection, encouragement, moral support and material aid to advance educationally, politically, economically, and socially; (2) make positions available to qualified colonials in various branches of local governmental bodies; (3) progressively grant such measures of self government as the individual peoples were equipped to maintain; (4) as soon as possible, fix specific dates for their achievement of independence within a system of international security; and (5) pursue economic policies that would develop colonial resources in the interests of both the peoples concerned and the rest of the world. In turn, peoples aspiring to independence would be obliged to equip themselves in all necessary ways to conduct and maintain efficient and stable governments."<sup>13</sup> This proposal received the general approval of President Roosevelt.

In March, 1943, when British Foreign Secretary Eden was in Washington, and discussed the British proposal with Secretary of State Hull, the new American draft was given to him. Hull further explained to Eden that only limited areas were proposed to be put under "direct international supervision" but the United States Government considered it essential that the "...international agencies should be able to observe and report on the administration of other colonies" by the administering nation.<sup>14</sup> The British Foreign Secretary opposed the draft, especially because it used the word independence; he further made the point that Australia and New Zealand also possessed colonies and thus they would be unwilling to remove these from their supervisory jurisdiction.

Thus the British made it explicit that they together with New Zealand and Australia considered their non-self-governing territories as their exclusive concern and would not accept international interference in this area.

The negotiations preceding the Dumbarton Oaks Conference failed to produce any agreement on this subject. The British and the United States Governments were actively engaged in preparing a proposal regarding the dependent peoples in general which might be acceptable to others, but their opinions differed with regard to the connotation of the term dependent. The United States government, especially the State Department, was eager to give it a broad meaning, and single out the non-self-governing territories and put them under a separate system provided by the Charter. This had been hinted at and explained to the British Foreign Secretary, at the time Secretary of State Hull gave him the American draft. The British Government on the other hand was not prepared to accept any proposal which would put their colonies and protectorates under international supervision. While the British and American proposals were still in a fluid stage, the Dumbarton Oaks Conference was held.

### **The Dumbarton Oaks Conference**

The Dumbarton Oaks Conference was held in two phases, the Soviet and the Chinese phase, from August 21, 1944, to October 7, 1944. It was held at Dumbarton Oaks in Washington, D. C. "Proposals for the Establishment of a General International Organization," better known as the Dumbarton Oaks Proposals, were the product of this conference.

The Conference discussions were held in an informal manner. The Dumbarton Oaks Proposals which were published at the end of this conference, had not emerged as the united and agreed view of the four important participating powers. These were the recommendations which were made individually by each of the four groups of high level technical diplomatic experts to their respective governments. Consequently, these proposals could not be used immediately as the basis of discussion in a conference of all the United Nations. These proposals were incomplete as they left many of the problems open for future discussions and agreement. The question of Trusteeship and non-self-governing territories was "left suspended" at this conference. The United States Department of State, therefore, hoped to transmit to the other major powers its omitted trusteeship

proposals outside this conference and finally develop a four-power position on the question. Due to interdepartmental difficulties within its own government, the proposed technical committee for the discussion of Trusteeship proposals and other matters related to non self-governing territories could not be established until February 1945.

The United States concern for the non-self-governing territories had not subsided. There was, however, the need to settle the American position before the proposals could be forwarded in the final form for the consideration of other sponsoring nations, namely China, Great Britain and the Union of Soviet Socialist Republics.

In 1945 a memorandum submitted to the President by the Department of State recommended that the President should try to obtain the agreement of the other nations participating in the Yalta Conference, on the inclusion of a chapter on Trusteeship in the future Charter. It further recommended that the President should urge the other powers to agree that not only the League of Nations mandates and territories taken from the current enemy states should be placed under such a Trusteeship System, but other territories could also be placed under it by mutual agreement. The latter proposal was a reference to Roosevelt's hope of using Trusteeship as an intermediate step for self-government and independence for colonial areas not within either of the first two categories.<sup>15</sup>

It was also recommended by the State Department that the general declaration of principles should be discussed at Yalta.

The interdepartmental differences within the United States government departments presented an obstacle which demanded attention before the question could be introduced at Yalta.<sup>16</sup> Moreover the United Kingdom's reluctance to accept the necessity of having a separate and specific declaration regarding non-self-governing territories had to be taken into account.

The Yalta Conference was held from February 3, 1945, to February 11, 1945. In the course of discussions on the Trusteeship System, Stettinius reported to the plenary meeting the recommendation that the participating governments should discuss the possibility of

providing "machinery in the World Charter for dealing with territorial trusteeship and dependent areas,"—at which point according to the Secretary, the Prime Minister exploded.<sup>17</sup> Churchill was opposed to any suggestion that in his view amounted to putting the British Empire into the dock and being examined by everybody.<sup>18</sup> Consequently the final text which emerged from the Yalta Conference omitted all general references to dependent areas.

### **The United Nations Conference on International Organization**

The negotiations and conferences which preceded the San Francisco Conference did not succeed in formulating a definite plan regarding the non-self-governing territories. Both Britain and the United States shared a common concern for the fate of these territories, but their points of view did not coincide. The British could not visualize the possibility of endowing the United Nations with the power of censoring the actions of the administering powers. Thus the United States, besides its interdepartmental difficulties, was faced with the possibility of incurring British displeasure by showing concern for the non-self-governing territories and demanding that their interests should be recognized in a specific part of the Charter. Furthermore, in order to implement the principles, their inclusion in the United Nations Charter was not sufficient. It was necessary to have the support of all the administering powers. Great Britain was an important administering power administering the largest number of non-self-governing territories. Thus, its cooperation was crucial to the success of any proposal regarding the non-self-governing territories.

Due to the differences and difficulties enumerated, the United States did not initiate any proposals regarding non-self-governing territories at the San Francisco Conference, held on April 25, 1945. At this conference, the initial proposals dealing with non-self-governing territories were introduced by Australia and the United Kingdom. These proposals were quite similar in essence. Both "... the British and the Australian proposals opened with several statements recognizing the principle of trusteeship as applicable to all dependent territories..."<sup>19</sup> The Australian proposal suggested that :

"All members of the United Nations responsible for the administration of dependent territories recognize in relation to them the principle of trusteeship—viz., that the main purpose of the administration is the welfare of the dependent peoples and their economic, social and political development."<sup>20</sup>

The British proposal was quite similar in form to that provided by Article 22 of the League of Nations Covenant, it referred to "dependent territories inhabited by people not yet able to stand by themselves under the strenuous conditions of the modern world."<sup>21</sup> The proposal seemed to be applicable to the trusteeship and the non-self-governing territories in general. The British commentary noted a distinction between "the principle of trusteeship which should guide colonial powers.....and be of universal application, and the creation of a special system of international machinery to apply to certain territories."<sup>22</sup>

The United Kingdom suggested the acceptance of the proposed broad statement of principles "to explain that trusteeship was only one aspect of a broader problem."<sup>23</sup>

Previously, Britain was not even ready to consider a specific proposal regarding the non-self-governing territories, while at San Francisco it was prompting to put forward certain initial proposals regarding these territories. This change in the British attitude is considered by Geoffrey L. Goodwin to be the result of the change in the British conception of "good colonial policy," supported by a certain group of British politicians, who believed "...that overseas dependencies were not a matter of sole concern to the metropolitan powers but were objects of legitimate interest to the international community." One group even went to the extent of supporting international management of dependent areas. Since they regarded internationalization "as a means of removing one of the irritants"

causing international tension.<sup>24</sup> This view, however, lost its popularity with the coming of the Second World War, though it contributed towards the subsequent change in British attitude.

During the aftermath of the Second World War the subsequent ending of colonial rule, and the establishment of self government in the near future was completed by the British as an inevitable part of good colonial policy. However, British official opinion still regarded references to self-government and independence as remote objectives rather than the criterion by which good colonial policy could be judged.<sup>25</sup>

The United States insistence on a specific proposal regarding the non-self-governing territories, seems to have contributed to this change in the British attitude. Moreover, according to Goodwin "... it was already evident that it would be difficult to reconcile Soviet views with any arrangements that allowed for the maintenance of a colonial system on the Western model."<sup>26</sup>

The possibility of other former colonial countries like the Philippines supporting the imposition of an international supervisory system on all dependent territories may also have influenced the British. Furthermore, Australia and to some extent New Zealand favoured the idea of international supervision over non-self-governing territories and this according to some writers was a significant factor in making the British change their previous position on the question of non-self-governing territories.<sup>27</sup>

Besides these, according to Goodwin, the British hoped that Chapter XI would form an annex to the main Charter and thus it would continue to be regarded as a "voluntary declaration." However, contrary to their hope this Chapter was incorporated as an integral part of the Charter, and consequently its legal status was modified.<sup>28</sup>

The other nations, namely France, the United States and the Soviet Union expressed doubts as to the necessity of including in the Charter a separate chapter regarding non-self-governing territories.



France's objections were based on what it regarded as international supervision. According to France the Trusteeship provisions "... should be kept within the framework of Dumbarton Oaks Proposals ...". It proposed that the principles recommended by Australia and the United Kingdom for inclusion in the Chapter on Trusteeship should be mentioned by the preamble of the Charter or included in the first chapter which stated the general principles of the United Nations Charter, and should not be a part of the chapter of Trusteeship.

The United States delegation proposed that the chapter on Trusteeship should mention that the principles declared in Chapter I was applicable to non-self-governing peoples.

The Soviet representative considered it unnecessary to include any such reference in the chapter on Trusteeship. According to him it was evident that Chapter I would have many points "...relative to non-self-governing territories."<sup>29</sup>

Thus the general feeling prevailing among the sponsoring nations and France at the San Francisco Conference was that a specific declaration regarding non-self-governing territories would be superfluous; they felt, however, that either it should be made a part of the Trusteeship System or should be included in the Chapter dealing with the general principles. The question was not resolved and there was need for further five-power consultations. It was agreed that a Working Paper would have to be prepared for the technical committee. The British proposal was incorporated as section A of the Working Paper. There had been differences regarding use of the term "self-government" within the five-power Consultative Group, which comprised the four sponsoring powers and France. The British draft had used the term "self-government." China and the Soviet Union recommended the use of the word "independence" instead of "self-government." France proposed that provision should be made for some form of federal unity with the metropolitan country, in which the progress of the political institutions of the dependent peoples could be developed. The British argued that the majority of the dependent peoples could not think of independence in the near future, due to their underdeveloped economic and other conditions, and, therefore, liberty was more valuable to them than independence. Moreover, according to the British point of view, the

territories "...where independence was contemplated in the near future, administering powers might be reluctant to continue investing their own resources."<sup>30</sup> China, on the contrary, argued in favour of the word "independence," since it felt that no country should be deprived of the possibility of becoming independent. Thus China recommended the addition of "...independence or self-government, as may be appropriate to the particular circumstances of each territory and its people."<sup>31</sup> Consequently, this suggestion was accepted and the third point proposed in the working paper was modified. The United States was of the opinion that independence was only one form of "self-government" thus there should not be any objection to the use of the term "self-government."

These debates over the use of certain specific terms reveal to a great extent the approaches of the different powers towards the problem of non-self-governing territories. It shows that Chapter XI was the product of slow and contested deliberations.

Besides the disagreements which were expressed in the Five-Power Consultative Group, other differences arose in the technical committee over the use of certain terms in Section A of the Working Paper forwarded for the Committee's action.

The participating powers in the technical committee were divided in their opinion regarding the use of the term 'self-government.' China, Soviet Union and Iraq recommended the use of the term "independence." China further argued that the word "independence" had been used in the League Covenant, and its absence from the United Nations Charter might imply a retrogressive attitude. The British, French, Netherlands, South African, and the United States delegates opposed the use of this controversial word. The United States opposed "independence" because it "...exceeded the possible area of agreement among the five powers." In view of these differences, the need for informal consultations among the advocates of independence and those against it was recognized.

Among the United States delegation different opinions prevailed. Some of the members believed that the inclusion of "independence" would be in accordance with the American tradition, and furthermore, this would satisfy the colonial peoples, and would defeat

the Chinese and Soviet propaganda of making much of the Western opposition to this word. However, it was felt that if the United States recommended any course beyond "self-government," "...it might be accused of interfering in the affairs of other states, and Great Britain might not go along on the Trusteeship System.

Finally, the five powers agreed to the use of the word "self-government" rather than independence. It was, however, decided to include independence as one of the objectives of the Trusteeship System.<sup>32</sup>

When this position was put forward in the technical committee on May 31, 1945, the Philippines, Iraq and Egypt objected since according to them conference decisions seemed to imply the unwillingness of its participants to let dependent territories, other than trust areas, achieve independence. They mentioned that "self-determination" had already been approved by another committee as a general principle of the Charter. To this the United States replied that the Working Paper should be accepted as a part of the other principles laid down in the Charter "...which envisaged that dependent peoples could progress from one stage to another until, when conditions warranted, they could apply for membership in the United Nations."<sup>33</sup> This explanation was accepted and the term "self-government" was accepted by all the participating nations except the Philippines.<sup>31</sup>

In the Five-Power Consultative Group, some members were opposed to requiring the submission of political information by the administering members. The Soviet Union argued in favour of its inclusion. Great Britain, France and the United States, however, were opposed to requiring this type of information. The United States opposed the inclusion of political information. Subsequently, Great Britain requested that some qualifying phrase like "such ...information as is available to Parliament" should be added, since parliaments are jealous of their prerogatives. France considered that the inclusion of political information would mean the acceptance of specific supervision by the United Nations over the administration of their non-self-governing territories and thus would amount to the establishment of. "...international supervision of colonies under national

sovereignty.”<sup>35</sup> Thus, the administering powers wanted to limit the United Nations authority over the non-self-governing territories. Finally, agreement was reached that the administering states should be required to transmit technical and other information regarding social, economic and educational advancement of the territories under their administration. The transmission of political information was left as voluntary. The suggestion that certain phrases should be included to place security and political limitation on the transmission of information was rejected until the matter was again sent back to the technicians. China, France, Great Britain, the United States and the Union of Soviet Socialist Republics were in great haste to present their proposals, since delay could result in the reintroduction of the amendment introduced by Australia, which provided for greater international accountability. Therefore, the five power statement of principles was expeditiously presented.

Due to the French refusal to sign any joint pledge or undertaking on national policies,<sup>36</sup> it was agreed that Chapter XI should be entitled “Declaration Regarding the Non-Self-Governing Territories.” In this way it was hoped that the proposals mentioned in this Chapter would not constitute an undertaking, but would be regarded as a declaration of principles. However, it was clear to these five powers that they had pledged to follow certain good principles regarding their non-self-governing territories. Consequently, they were obliged to adhere to these declared principles. However, since the principles were put in a general manner there was no way of determining the extent of specific obligations ensuing from the pledge laid down in Chapter XI.

With some minor revisions this draft was accepted by the Consultative Group and subsequently it was sent to the technical committee. Finally this became Article 73.

One can conclude as a result of this survey of the negotiations and conferences preceding the final drafting of Chapter XI, that every word and phrase in the Chapter had been weighed, their possible implications discussed, and all controversial points discarded by the sponsoring nations. In their anxiety to reach an agreement the sponsoring nations had often gone halfway to accept another’s point of view. Words had been changed, phrases done away with just to

reach an agreement over the proposed final draft of Chapter XI. The finished product of these deliberations reflected the process through which it had passed.

The Chapter opened with the declaration of member states, responsible for the administration of territories whose peoples have not yet attained a full measure of self-government,<sup>37</sup> and wished to recognize that the interests of the inhabitants of these territories were paramount. They further accepted as a sacred trust the obligation to promote to the utmost within the system of international peace and security...established by the Charter, the well-being of the inhabitants of these territories.<sup>38</sup>

In this declaration "non-self-governing" is an ambiguous term. Neither does the Chapter give any definition of non-self-governing, nor does it try to enumerate the factors whose existence would make a territory non-self-governing. Therefore, the scope of the provisions of Chapter XI is left unlimited. The question is who is to decide what are the territories regulated by Chapter XI. The General Assembly can give suggestions regarding territories which come under Chapter XI, but it cannot make its acceptance obligatory on the administering powers. Therefore, in the final analysis the administering powers have the ultimate power of determining the territories on which information should be submitted under sub-paragraph 73c.

The interests of the non-self-governing peoples are declared to be paramount. So the question arises who is to determine what are the interests of the inhabitants of these territories. No provision exists in the Charter for it to be determined through plebiscite or any other means. The administering powers further accept the task of promoting the well-being of the inhabitants of these territories. The term well-being is not defined, and there is no way of determining its exact implications. Moreover, though the administering powers accept as "a sacred trust the obligation to promote to the utmost...the well-being of the inhabitants of these territories,"<sup>39</sup> they are to promote the "well-being within the system of international peace and security." No doubt their actions and the interests of their non-self-governing territories are limited by the requirements of "international peace and security." Though the interests of the non-self-governing

territories are “paramount” yet international peace and security are given primacy, and no final decision has been reached as to the standards which are to be applied by the administering powers at times when their sacred trust conflicts with their efforts at maintaining international peace and security.

In sub-paragraph “b” the administering powers assume the responsibility “to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement.”<sup>10</sup>

The development of self-government in the dependent territories and encouragement for their political aspirations is recognized as necessary, and the administering powers agree to abide by it. However, the phrase “according to particular circumstances” qualifies and restricts the promotion of self-government in dependent territories. The Charter makes no provision as to the measures by which the circumstances are to be judged, nor does it mention the authority or organ which should be able to decide when the circumstances prompt the administering powers to take up the role assigned to them by sub-paragraph “b” of Chapter XI of the Charter. This no doubt adds to the ambiguity of Chapter XI.

Article 73 starts out with a very ambiguous statement : “territories whose people have not yet attained a full measure of self-government” followed by no provision excluding from the application of the terms of Chapter XI territories which are or may become members of the United Nations, India and the Philippines may be included, which at the time of adoption of the Charter did not enjoy full self-government.<sup>11</sup>

Since the attainment of self-government is the aim of many non-self-governing territories and Chapter XI was included in the Charter as a gesture of appreciation towards the non-self-governing territories which had contributed towards victory in the fight against the Axis powers, self-government was included as a goal of Chapter XI. Article 73 provides for this right of the non-self-governing territories,

however, the steps between dependence and ultimate self-government are not defined in precise terms. The whole of Chapter XI is full of vague generalities.

The second obligation under sub-paragraph "a" of Article 73 is "to ensure just treatment" of the inhabitants of the non-self-governing territories. Many interpretations can follow from this provision. Goodrich and Hambro interpret it as a social guarantee and not used in a legal sense to guard against discriminatory treatment, and thus they feel that no legal claim on the part of these territories could be justified.<sup>42</sup>

Article 73e, however, was the only part of Chapter XI which spelled out certain specific obligations regarding non-self-governing territories, and thus could be used as a base for further elaboration of this particular part of the United Nations Charter, but since this provision is qualified and restricted by many phrases, its exact implications were vague and ambiguous.

#### **Vague Requirements Set Out in Article 73e**

The administering powers are regularly to transmit information to the Secretary-General on the territories under their administration. This information is to be supplied only for "information purposes." Moreover, it is also subject to the limitations arising from "security and constitutional considerations." The latter phrase makes it very ambiguous who is to decide what security and constitutional considerations consist of, how it is to be judged when these considerations are thought to be present continuously and whether the administering power concerned is entitled to abandon the furnishing of information? These questions remain unanswered. The Charter does not make it clear why it is necessary for the administering powers to supply information to the Secretary-General for information purposes only, if the other members of the United Nations are not to be enlightened regarding the policies followed by the administering powers in their respective dependent territories. Thus sub-paragraph "e" of Article 73 does not make it clear nor does any other part of the United Nations Charter, what should be done with the information supplied by the administering powers.

Article 73e provided fertile ground for interpretation. It had been prepared after long deliberations, and in spite of verbal agreement on the substance of this Article no actual reconciliation had

been reached. Moreover, its framers had not been able to foresee all the disputed questions that its terminology might encourage.

Chapter XI of the United Nations Charter is the product of a compromise ; its framers were moved by idealism to recognize the rights and interests of non-self-governing territories. This idealism could not, however, destroy their anxiety to preserve their internal affairs from all possible encroachments. Thus they wrote this Chapter as a declaration of principle rather than an undertaking. No implementing body was provided under Chapter XI. Moreover, Article 73e which laid down specific obligations under Chapter XI did not require the transmission of political information. Thus a distinction was made between the non-self-governing territories and the Trusteeship Territories, and the framers of the Charter were anxious to preserve this difference.



### **CHAPTER III**

## **The Creation, Continuation and Composition of the Committee on Information From Non-Self-Governing Territories**

### **Arguments About the Creation and Existence of the Committee**

At the opening session of the General Assembly the question of creating some kind of implementing machinery regarding Chapter XI was raised. It was further felt by some members that this body should be empowered to examine the information required to be submitted by Article 73e.

Though the United Nations Charter did not provide any machinery for implementing the provisions of Chapter XI, it did not prohibit the creation of any such machinery and Article 22 of the United Nations Charter stated that the Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

Two different opinions prevailed among the United Nations members regarding the creation of the Committee. The group of members which opposed the creation of the Committee believed that since no such provision was to be found in the Chapter on non-self-governing territories, it showed that this omission was intentional. They argued that the framers of the United Nations Charter desired to make this Chapter different from Chapters XII and XIII which provided for the establishment of the Trusteeship Council, by omitting the mention of any implementing machinery regarding the non-self-governing territories. Thus they felt that the creation of any such machinery would amount to an effort at assimilation by eradicating the difference between the two separate systems provided by the Charter.

Within this group of members, there were a few which felt that the creation of an implementing body would constitute a revision of the Charter and thus would be illegal.

The United Kingdom and the United States which were in essence opposed to the creation of the Committee suggested that the question of creating a committee should be postponed until the

next session of the Assembly and felt that it would be wise at that time to consider whether or not the procedure provided by the Charter with regard to the transmission of information should be corrected.<sup>1</sup>

The other group of members supporting the creation of the Committee interpreted Article 73e as a provision which established international supervision. They argued that since the administering powers had recognized the paramountcy of the interests of the people they governed, and had accepted it as their sacred trust to promote to their utmost the well-being of these peoples, the United Nations was authorized to check on the methods employed by the administering powers to fulfil this "sacred trust". Moreover, according to these powers Article 73e was a device established by the framers in order to determine from time to time the degree of advancement and progress achieved by the non-self-governing territories. Thus these powers regarded the creation of a committee as essential in order to implement the provisions of Chapter XI and examine the efforts that the administering powers made towards fulfilling their pledge. These members failed to see any difference between Chapters XI, XII and XIII. According to them, in spite of verbal differences, all the three Chapters were impregnated with the same spirit, and thus, the creation of a committee in no way violated the United Nations Charter.

The Australian delegate accepted the difference between the three chapters. However, he believed that a committee of experts which would report to the Assembly upon the information transmitted to it might be useful. Since he felt that this might help to ensure an enlightened discussion in the Assembly.

Besides debating the possible creation of an ad hoc committee, what was to happen to the information transmitted under Article 73e of the Charter was also considered by the United Nations members at the first session of the Fourth Committee. This question was closely related to the creation of a committee and thus the opinions were divided in the same two broad groups. The conservative point of view regarded the transmission as a routine and argued that this information was submitted for "information purposes." Especially the French representative took a very conservative attitude regarding this question. According to him, Article 2, paragraph 7, of the

1. UNGAOR, Fourth Committee (1st Session, Part I), p. 125.

Charter prohibited the United Nations to interfere in the sovereign rights of nations, and thus, though the United Nations was entitled to inspect trust territories, it was not entitled to inspect sovereign states or non-self-governing territories except in certain contingencies when it was specifically permitted by the Charter.<sup>2</sup>

The opposing group of members argued that since the United Nations had agreed to exercise a close supervision over the non-self-governing territories it was necessary that the information regarding these territories should be made available to the members of the United Nations, and some of them suggested that the Trusteeship Council should be entrusted with the task of receiving this information and thus implementing the provisions of Chapter XI. Though different points of view were expressed regarding this question no specific proposals were presented by these powers which invited the Assembly's consideration.

China forwarded a proposal to the Fourth Committee in February, 1946, recommending that the Secretary-General should include in his annual report a statement summarizing such information as may have been transmitted under Article 73c of the Charter<sup>3</sup>. A resolution including this proposal was unanimously adopted by the General Assembly. This was resolution 9 (I) of February 9, 1946. This endorsement meant that the members were agreed that the Secretary-General should summarize and report to the General Assembly the information transmitted to him by the administering powers. This, in fact, was an attempt to establish the competence of the Assembly and the members of the United Nations to receive information on the non-self-governing territories.

In the second part of the first session of the Assembly, the Secretary-General submitted a special report saying that :

"...Members responsible for transmission will no doubt wish...to secure an adequate examination of the summaries to be made by the Secretary-General."<sup>4</sup>

Thus the report of the Secretary-General suggested the need for an expert body to help him in preparing the summaries, and to help the General Assembly in giving the attention which it might merit.

2. UNGAOR, Fourth Committee (1st Session Part III, Summary Record of Sub Committee 2), p. 27.

3. U.N. Document A/C. 4.10.

4. *Ibid.*, A/74, p. 12.

The first fully elaborated proposal for a Special Committee to examine the information transmitted by the member states and the summaries prepared by the Secretary-General emanated from the Secretariat. In a working paper submitted by it to the Fourth Committee, the Secretariat further made the suggestion that the Fourth Committee might want to appoint a committee that would meet before the opening of the second session to examine the Secretary-General's summary and examine the information on which this summary was based. In addition to this, the paper suggested the temporary appointment of an *ad hoc* Committee made of certain named governments, and proposed that this Committee might be given instructions to suggest procedure for the future.<sup>5</sup>

Three other proposals were submitted by China, France and the United Kingdom and Cuba respectively. China proposed that since the Trusteeship Council was an impartial organ, it should be entrusted with the co-ordination of information submitted by the Administering Members.<sup>6</sup>

India, however, opposed the proposal on legal and practical grounds. Its delegate held in the Sub-Committee 2 of the Fourth Committee that the suggestion was not feasible, and suggested the establishment of an *ad hoc* committee to examine the information.<sup>7</sup>

The French and the United Kingdom representatives proposed that the Secretariat was the best organ to be entrusted with the task of co-ordination. The Netherlands representatives supported these recommendations.<sup>8</sup>

The Secretary, Mr. Benson, however, stated in the Sub-Committee 2 of the Fourth Committee that the members of the Secretariat were international civil servants. They needed exact instructions and should not carry the burden of political responsibilities which should be assumed by bodies of a higher order.<sup>9</sup>

Cuba made a suggestion similar to the one made earlier by the Secretariat except that this proposal recommended a different composition of the *ad hoc* Committee. It proposed that since the Secre-

5. *Ibid.*, A/C.4/25, p. 3.

6. UNGAOR, Fourth Committee (1st Session, part III, Summary Records of the Report of Sub Committee 2), p. 20.

7. *Ibid.*, p. 25.

8. *Ibid.*, pp. 19, 20.

9. *Ibid.*, p. 24.

tary-General had no political responsibilities, the information should be given to an *ad hoc* Committee. It said, that the committee should be made of an equal number of representatives of the states transmitting information and of certain other members elected by the General Assembly "on the basis of equitable geographical distribution." In the opinion of this representative the fact that the report was to be transmitted by the Secretary-General "did not preclude preliminary classification and analysis by the Secretary-General."<sup>10</sup> This proposal was rejected by a narrow margin.<sup>11</sup>

At the time the report of the Sub-Committee was presented to the Fourth Committee, Cuba proposed an amendment to the proposal submitted by Denmark, the Netherlands, the United Kingdom and the United States.<sup>12</sup> This proposal had been made and adopted in the Sub-Committee 2 of the Fourth Committee in late 1946, by a vote of 10-4-5.<sup>13</sup> It requested the Secretary-General to summarize, analyze and classify the information transmitted during the course of 1947 and to include this information in his report to the second session of the Assembly, so that in the light of experience gained the Assembly might be able to decide whether any other procedure might be desirable for dealing with such information in future years.<sup>14</sup>

The second proposal introduced by Cuba suggested the creation of the same kind of *ad hoc* committee as had been rejected when it had made a similar proposal in Sub-Committee 2 of the Fourth Committee, it stated that under Article 22 of the Charter and rule 100 of the rules of procedure it was permissible to set up an *ad hoc* committee but caution should be exercised, lest by taking too many measures in rapid succession, the impression might be conveyed that there was an intention to amend the Charter.<sup>15</sup>

The Belgian representative was totally opposed to the information from non-self-governing territories being considered. He regar-

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10, U.N. Document A/C. 4.Sub 2/18.

11, UNGAOR, Fourth Committee (1st Session Part III), p, 38.

12. UNGAOR, Fourth Committee (1st Session, Part I) p. 124. Also U.N. Document A/C. 4/67.

13. UNGAOR, Fourth Committee (1st Session, Part III), p. 39, 10-4-45 means 10 votes in favour, 4 against and 5 abstentions.

14. U.N. Document A/C 4 Sub. 2/22.

15. UNGAOR. Fourth Co. (1st Session, Part III), Summary Records of Meetings of Sub. Co. 2), p. 29.

ded the attempt at creating an implementing body as illegal and a violation of the Charter. He believed that the information should be preserved in the form in which it was transmitted by the administering members "...just as a book was accepted to be placed in the library."<sup>16</sup> The Fourth Committee, however, adopted the Cuban amendment by a vote of 21-12-4.<sup>17</sup>

When the paragraph of the resolution relating to the establishment of an *ad hoc* committee was put to the vote in the plenary session of the General Assembly, it received exactly a two-thirds majority. All the administering members cast a negative vote except New Zealand, which abstained. The entire resolution was subsequently adopted by a vote of 27-7-13. The Assembly then elected the eight non-administering members of the *ad hoc* Committee. These were Brazil, China, Cuba, Egypt, India, Philippines Republic, Union of Soviet Socialist Republics and Uruguay.

All the administering powers except New Zealand cast a negative vote. By analyzing the arguments put forward by Australia, Belgium, France, the United Kingdom and the United States one arrives at the conclusion that these member nations regarded the attempt of the other group of member nations to create an *ad hoc* committee as contrary to the provisions of the United Nations Charter. The administering powers in general were not willing to modify the provisions of the Charter or give it a more liberal interpretation than was intended by the framers of the United Nations Charter. Even the creation of a temporary machinery of the kind advocated by the opposing group was in their understanding illegal and might amount to the establishment of international accountability over non-self-governing territories, as the members responsible for the administration of non-self-governing territories might have to appear before this body to defend their policies, and their policies might be the subject of discussions in the United Nations. Since Chapter XI was a declaration of good principles, these powers believed that it did not need to be implemented. Moreover, they argued that the administering powers were under no obligation and could not be held answerable for their non-self-governing territories to a specific body created for this purpose.

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16. *Ibid.*, p. 26,

17. UNGAOR, Fourth Co, (1st Session, Part I), p. 127.

The task of the Committee as specified by Assembly resolution 66(1) of December 14, 1946 was to examine the Secretary-General's analysis of the information from non-self-governing territories with the dual purpose of "aiding the General Assembly in the consideration of this information" and of "making recommendations to the General Assembly regarding the procedure to be followed in the future."<sup>18</sup>

Thus the first of several temporary committees was created. Since the inception of the committee, Belgium, France and the United Kingdom have argued that its existence was illegal and a violation of the Charter. Moreover, they consider its establishment to be an encroachment on the domestic jurisdiction of the administering powers.

#### **Deliberations on the Continuation of the Committee.**

In 1947, the *Ad Hoc* Committee on the Transmission of Information Under Article 73e, submitted for the Fourth Committee's consideration five draft resolutions on the procedure to be followed in the future. The last draft resolution which was proposed by the *Ad Hoc* Committee recommended the creation of a special committee to examine information supplied under Article 73e.<sup>19</sup> The draft resolution adhered quite closely to the terms of reference and powers of the previous committee established by the Assembly resolution 66 (1) of 1946.

An alternative to this text was proposed by the representative of India, in the Fourth Committee. This alternative proposal was expressed in a very vague manner, and thus no specific tenure was requested for the committee. Moreover, it also left undefined the type of recommendation which this Special Committee was competent to make to the Assembly. It read :

"The General Assembly constitutes hereby a special committee, to be composed of Members of the United Nations transmitting information and of an equal number of Members elected for a period of two years by the General Assembly on as wide a geographical basis as possible, to meet some weeks before the opening of each regular session of the General Assembly in

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18. The G. A., by a resolution adopted on December 14, 1949, during the second part of the first session appointed an *Ad Hoc* Committee on the Transmission of Information under Article 73e of the Charter. This committee met at Lake Success from August 28 to September 12, 1947.

19. U.N. Document A/424. p. 1.

order to examine the information transmitted under Article 73e of the Charter and to submit reports thereon for the consideration of the General Assembly with such recommendations as it may deem appropriate.”<sup>20</sup>

The second part of this proposal did not arouse much controversy but since this first part recommended the election of the members of the Special Committee by the Assembly, it appeared to be an attempt to elevate the status of the Committee and thus turn it into a subsidiary organ of the General Assembly. Moreover, the alternative text was interpreted by France, the United Kingdom and the United States as recommending a permanent or indefinite tenure for the Committee.<sup>21</sup> However, the Indian amendment was adopted by the Fourth Committee by a vote of 23-19-0.<sup>22</sup>

In late 1947 the Vth resolution as amended was forwarded by the Fourth Committee for consideration by the Assembly. The representative of France, the United Kingdom and the United States criticized the fifth resolution and gave the same reasons for their opposition as they had given in the Fourth Committee.

The French representative believed that the resolution sought to remove the essential difference which existed between Chapters XI, XII and XIII.

He further argued that :

“A permanent committee elected for a period of two years would be authorized, after examining information previously analyzed by the Secretary-General, to make recommendations. These might apply to a particular territory. This would amount to submitting to United Nations control, in the real sense of the word ‘control’, the administration of territories over which the sovereignty of Member States should remain intact, as is stipulated in Article 2, paragraph 7 of the Charter.”<sup>23</sup>

This representative had further argued that the Special Committee proposed by India would only duplicate the work of the Fourth Committee by examining the Secretariat’s work.<sup>24</sup>

20. UNGAOR, Plenary Meetings (2nd Session), p. 731, Also A/C, 4/108 U.N. Documents.

21. UNGAOR, Fourth Committee (2nd Session) pp. 76-77.

22. *Ibid.*, p. 78.

23. UNGAOR, Plenary Meetings (2nd Session), p. 734.

24. UNGAOR, Fourth Co. (2nd Session), p. 36.



The representative of the United Kingdom supported the French representative in the Assembly and argued that the Vth resolution, together with the Indian amendment was a device for bringing all non-self-governing territories under a system of supervision similar to the Trusteeship system. He further noted that this was a violation of the United Nations Charter and a "backdoor compulsory trusteeship organization."<sup>25</sup>

The British delegate further believed that the Committee was superfluous, that there was no need for its continuation, and that it would be an unnecessary expenditure for the United Nations. According to him there was nothing in the Charter that justified the Committee's existence. Moreover, in his opinion the San Francisco Conference conversations on Chapter XI did not provide any foundation for the creation of the Committee.<sup>26</sup>

The United States delegate said that :

"It (Chapter XI) was a declaration not an assumption of fresh obligations under the Charter. Unlike all other chapters of the Charter, Chapter XI did not contain the word 'shall'. The sharp distinction between Chapter XI and those referring to Trusteeship Territories was also borne out by specific provisions. Chapter XII, appointed the Security Council, the General Assembly, and the Trusteeship Council to supervise the execution of its provisions, whereas Chapter XI made no provision for supervision, by any organ of the United Nations."<sup>27</sup>

Thus these representatives felt that the Indian amendment if adopted would amount to a violation of the United Nations Charter.

According to the Indian delegate since the proposal did not mention the establishment of a permanent committee, the temporary committee of the nature recommended by his amendment could not be considered beyond the framework of the Charter. He believed that his proposal differed from that originally recommended by the *Ad Hoc* Committee only in one respect, and this was the proposal that the Committee should be appointed by the General Assembly instead of by the Fourth Committee.<sup>28</sup>

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25. UNGAOR, Plenary Meetings (2nd Session), p. 783.

26. *Ibid.*, p. 739.

27. UNGAOR, Fourth Co. (2nd Session), p. 43.

28. UNGAOR, Plenary Meetings (2nd Session), p. 739,

However, as a result of the opposition offered to his amendment in the General Assembly the representative of India slightly changed the wording of the draft resolution, and introduced it in the form of a new amendment.<sup>29</sup> This, however, was not acceptable to the majority of members, since no fundamental changes were made. The Indian amendment was rejected by the Assembly.

There were two parts to the Indian amendment. The first was rejected by 16-25-15 votes ; the second by 15-24-14 votes. New Zealand, with Union of Soviet Socialist Republics, other countries of the Soviet bloc, India, the Philippines and Thailand voted in favour. Most of the Latin American countries and Turkey voted with the remaining administering members against the amendment. A few Latin American countries, Arab countries and Pakistan abstained.<sup>30</sup> The voting made it evident that a majority of the members of the United Nations were unwilling to elevate the status of the Committee as proposed by the Indian delegate.

The delegates of Brazil, Denmark, France, the Netherlands and Nicaragua, the United States of America and Uruguay introduced an amendment to this resolution. This amendment recommended that the fifth resolution should be discarded in favour of the original proposal recommended by the *Ad Hoc* Committee to the Fourth Committee.<sup>31</sup> This was adopted by a vote of 49-0-4.<sup>32</sup> Finally the Vth resolution was adopted by the Assembly in its amended form by 44-0-0 votes. Thus the General Assembly resolution 146 (II)<sup>33</sup> endorsed the extension of the Committee for a further period of two years.

The *Ad Hoc* Committee was replaced by the Special Committee. This resolution recommended that the Fourth Committee should establish a committee :

“To examine the information transmitted under Article 73e of the Charter on the economic, social and educational conditions in the non-self-governing territories, and to submit reports thereon for the consideration of the General Assembly, with such procedural recommendations as it may deem fit, and with

29. U.N. Document A/446.

30. UNCAOR, Plenary Meetings (2nd Session), p. 744.

31. U.N. Document, A/438, p. 1.

32. UNGAOR, Plenary Meetings (2nd Session), p. 712.

33. UNGA Resolution 146 (II), November 3, 1947.

such substantive recommendations as it may deem desirable relating to functional fields generally but not with respect to individual territories."

It further authorized the Special Committee to get the counsel and assistance of the specialized agencies, and to establish liaison with the Economic and Social Council ; and to invite members to provide supplemental information within the terms of Article 73e.

It considered that the Special Committee should be composed of an equal number of administering and non-administering members elected by the Fourth Committee on as wide a geographical basis as possible. The Committee was to meet as decided by the Assembly.

An analysis of the voting on this resolution shows, that though opposed to granting a permanent mandate to the Committee the majority of members had accepted the existence of the Committee and had voted in favour of its extension for a limited period of time.

Thus, though the attempts of India and some other powers to elevate the status of the Committee was rejected, the continuance of the Committee, and the change in its name, signified a compromise between the two groups of powers ; since those members which regarded the existence of the Committee as illegal and amounting to a revision of the Charter, had to concede to its continued existence for a limited period of time.

#### **1949 Discussion on the Continuation of the Committee.**

In 1949 once more the question of the Committee's renewal came up in the Fourth Committee and subsequently in the General Assembly. France and the United Kingdom opposed the establishment of the Committee on a permanent basis as was demanded by India together with some other members. The Indian delegate had said in the Assembly session of 1945 that he wanted to see the Special Committee established on a permanent basis.<sup>34</sup> He believed that another session of the Special Committee would further strengthen the argument in favour of a permanent organization by proving its usefulness to the administering members.<sup>35</sup>

34. UNGAOR, Plenary Meetings (3rd Session), p. 384.

35. *Ibid.*, p. 385.

Belgium, France and the United Kingdom argued in the Assembly that the Committee could perform only procedural functions. They were opposed to extending the Committee's powers, as well as the idea of making it a permanent body. The Belgian delegate held that the first Special Committee, modestly entitled the *Ad Hoc* Committee, was endowed only with the powers of making recommendations on procedural measures.<sup>36</sup> The representative of the United Kingdom agreed that the only functions which the Committee could perform and which it should perform were procedural.<sup>37</sup> He further argued that discussing the information regarding non-self-governing territories and entrusting this task to a Special Committee was not justified.

“...There was no justification for spotlighting or highlighting conditions in the non-self-governing territories. The problems which existed there could not be considered in isolation ; they formed a part of world problems which were to be found in under-developed areas irrespective of how their political status happened to be defined by jurists.”<sup>38</sup>

The delegate of the Soviet Union, however, argued in favour of extending the competence of the Committee and establishing it on a permanent basis. According to the Soviet delegate it was not contrary to the provisions of the Charter and he believed that a few United Nations members were interested in narrowing the limits of the Committee's competence by recommending the restriction of the Committee's terms of reference to only procedural powers.<sup>39</sup>

The Belgian delegate regarded this as an attempt to encroach upon their sovereign rights, since according to him the relation between a state and its non-self-governing territories was within the domestic jurisdiction of that state.<sup>40</sup>

In 1949 India, Cuba, Mexico and some other members introduced ten draft resolutions, in an attempt to increase the competence of the Committee. Out of these ten draft resolutions which were considered by the Fourth Committee five dealt with the future of the

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36. *Ibid.*, 4th Session, p. 454.

37. *Ibid.*, p. 456.

38. *Ibid.*, p. 456.

39. UNGAOR, Plenary Meetings (3rd Session), p. 389.

40. *Ibid.*, p. 671.

**Special Committee** The sixth resolution was regarding the establishment of a Special Committee on Information ; the seventh draft resolution proposed that the Special Committee should concentrate on one functional field each year. This resolution was jointly proposed by Mexico and the United States. The eighth draft resolution related to the determination of territories to which Chapter XI applies. All these resolutions were adopted by the Assembly.<sup>41</sup> The United Kingdom invariably voted against these resolutions, while France and Belgium either voted against or abstained. The United States voted in the affirmative on most of these resolutions. While the Soviet Union voted against a number of these resolutions, the reason for this is hard to determine. However, this seems an exception to the Soviet practice of invariably voting with the newly independent nations in an effort to increase international supervision and accountability over non-self-governing territories.

In 1949 the Committee was granted an extension until 1952. The General Assembly resolution 332 (IV) endorsed the Fourth Committee decision by granting the Committee the proposed three year extension.<sup>42</sup> The Indian delegate explaining his delegation's position on this resolution said that :

"In a spirit of compromise," they had "yielded in the Fourth Committee and had agreed to accept the United States proposal for a three year term, leaving it to the General Assembly of 1952 to decide whether the Special Committee should continue to exist, and to decide upon its composition and terms of reference."<sup>43</sup>

In this way the Indian delegate emphasized the spirit of compromise which had prevailed among the United Nations members over the question of the Committee's extension.

### **The 1952 Discussion Regarding the Continuance of the Committee**

In 1952 the Committee's extension was considered both by the Fourth Committee and the Assembly. India, the Philippines, Mexico, Burma, Pakistan and others felt that the Committee should be made permanent. Belgium, France and the United Kingdom on the other hand were completely opposed to it.

The French delegate argued that the attempt of some United

41. UNGAOR, Plenary Meetings (4th Session), Annexes, pp. 111—117.

42. UNGAOR, Plenary Meetings (4th Session), p. 461.

43. *Ibid.*, p. 459.

Nations members to obtain a permanent mandate for the Committee was prompted by the desire for publicity.<sup>44</sup>

• According to the Belgian and French representatives the Committee was neither necessary nor lawfully constituted and thus the question of its permanency could not be considered.<sup>45</sup>

The delegate of the United Kingdom believed that the insistent demand for a permanent committee amounted to an attempt at assimilation, and said that the distinction between Chapters XI, XII and XIII should be preserved.<sup>46</sup> He further stated in the same session of the Assembly that the United Kingdom would not be able to participate in the meetings of the Committee if it were given a permanent status. If, however, the Committee's life was extended for another three year period only, the United Kingdom would participate in its work as it had done previously.<sup>47</sup>

The Belgian delegate argued similarly and thought that these members were trying to transform the provisions of Chapter XI into a kind of "Trusteeship regime," which the San Francisco Conference had purposely "ruled out." This delegate threatened to leave the Committee if it was converted into a semi-permanent body.<sup>48</sup> Since the 1952 Session of the General Assembly Belgium has put this threat into practice. It has continued to supply information regarding its non-self-governing territories, since according to Belgium its discontinuance would amount to non-fulfilment of the obligations established under Chapter XI of the Charter. Belgium's withdrawal from the Committee has given great significance to the French and British threats of withdrawal from the Committee, since their non-participation would remove the powers administering the largest number of non-self-governing territories from the Committee and thus the Committee would no longer be an effective body.

The Belgian representative said in the Fourth Committee meeting that Belgium would not have signed the United Nations Charter and agreed to the provisions of Chapter XI if it had known that the reservation with regard to non-self-governing territories would be gradually dropped.<sup>49</sup>

44. UNGAOR, Plenary Meetings (7th Session), p. 345

45. *Ibid.*, p. 344.

46. *Ibid.*, 344.

47. *Ibid.*, p. 344.

48. *Ibid.*, p. 346.

49. UNGAOR, Fourth Co. (7th Session), p. 111.

India, Iraq, Uruguay, Brazil, Venezuela and the Philippines admitted that the creation of a Special Committee was not contemplated at San Francisco and consequently no direct provision existed in the Charter regarding the creation of this Committee, but the creation of a sub-committee was authorized by Article 22 of the Charter.

The Philippine delegate admitted that there seemed to be a gap in Chapter XI in comparison with Chapter XII and XIII. He further held that under the Trusteeship System an implementing body had been set up to give effect to the principles and objectives of the system, but no such machinery had been mentioned regarding the administration of non-self-governing peoples, except as implied in Article 73e.<sup>50</sup>

Australia, Denmark, the Netherlands, the United States and Canada were all opposed to the Committee's extension for an indefinite period of time. One group of members tried to make a strict interpretation of the provisions of the Charter, while the other group of members for example, India, Union of Soviet Socialist Republics, Poland, and some Latin American and Arab countries attempted to interpret the provisions of Chapter XI in extremely liberal terms. Both groups of members quoted the Charter provisions to support their interpretations.

The Indian delegate felt that it was necessary for the evolutionary growth of the Charter for it to have been drafted in ambiguous terms. He had held in the Fourth Committee :

"The General Assembly had gradually read far greater significance into Article 73 of the Charter as a whole than had been contemplated at San Francisco in 1945. It had done so not by formal changes in the Charter but by the gradual crystallization of conventions adopted by mutual consent."<sup>51</sup>

According to him the formal amendment of the Charter was not the "only means of liberalizing the terms of the Charter." He quoted the Canadian representative as suggesting that the question of establishing the Committee on a permanent basis might be more appropriately considered in 1955 when the Charter might be revised, and criticized it.<sup>52</sup>

50. *Ibid.*, (8th Session), p. 132.

51. *Ibid.*, (7th Session), p. 108.

52. *Ibid.*, p. 108.

India along with Poland and the Soviet Union argued that since the administering members could not terminate their responsibilities regarding the non-self-governing territories until all such territories ceased to be non-self-governing an indefinite extension of the Committee's existence was indispensable. They believed that the functions of the Committee would continue as long as there were non-self-governing territories and therefore, it was wise to avoid unnecessary expense caused by periodic extensions of the Committee. Moreover, they felt much time was spent in debates over the continuance of the Committee, which could be saved by making it permanent.

However, the members, insisting on the Committee's establishment on a permanent basis realized the futility of their attempts since the administering members were not prepared to accept the Committee on a permanent basis. Moreover, a Committee without the participation of Belgium, France and the United Kingdom would not be useful. Thus, these members did not insist on a permanent mandate for the Committee.

Finally a draft resolution proposed by the United States delegate advocating the continuation of the Committee on the same basis "for a further trial period of three years"<sup>53</sup> was adopted by the Assembly with minor amendments. In December, 1952, by a vote of 53—2—3, the Committee was granted an extension until 1955.<sup>54</sup> This resolution deleted the word "special" from the name of the Committee. Its official title became and continues to be the Committee on Information from Non-Self-Governing Territories.<sup>55</sup> Usually this Committee is referred to as the Committee on Information. Sentiments in favour of the Committee have been very strong and thus the Committee has gained successive extensions. However, the renewal of the Committee is not automatic; a twenty-one power proposal to provide for automatic continuation of the Committee as long as there were non-self-governing territories failed in 1952.

In 1952 when the question of renewing the Committee was debated the United Kingdom and France argued against its extension.

53. UNGAOR, Supplement No. 18 (7th Session). Also U.N. Document (A/2219), p. 8.

54. UNGAOR, Fourth Co. (7th Session), p. 355.

55. UNGA Resolution 646 (VII).



The French representative, questioned the legality of the Committee's existence, and stated that France had been able to participate in the work of the Committee since it was a non-permanent body and "... it was a provisional situation of fixed duration..."<sup>56</sup>

### **1955 Discussion Regarding the Continuation of the Committee**

In 1955 the French and the British delegates opposed the continuation of the Committee and brought forward the same arguments as they had done in 1952. To them the effort to continue the Committee on the basis proposed by India would give it a status equal to Trusteeship Council. They felt that it would amount to establishing indirect international supervision over non-self-governing territories. These two members stated that they would not participate in the Committee's work if it was granted a permanent mandate. They were in favour of the Committee's discontinuance at this stage.

The United States, however, supported the continuation of the Committee for a further three year period. In 1946, when the creation of *Ad Hoc* Committee was proposed for the first time, this delegate was not sure if the creation of the proposed committee might not violate the United Nations Charter. In 1955 the United States delegate supported the Committee's extension and expressed disagreement with the stand adopted by the French and British delegates. He said in the Fourth Committee that the United States was not in agreement with the British interpretation of Chapter XI but respected its reasons for not participating in the Committee if its terms of reference were expanded. He appreciated the co-operation of the United Kingdom in the work of the Committee, despite its misgivings, on the understanding that its terms of reference would not be broadened. He further stated that :

"The Committee on Information would lose a great deal of its value if it forfeited the co-operation of that country, which had, furthermore, made substantial contributions to its work."

#### **According to him :**

"The loss of a forum in which administering and non-administering states could hold an honest exchange of views on the problems of those territories would be a

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56. UNGAOR, Plenary Meetings (7th Session), p. 345.

serious matter. The Committee on Information was a useful and valuable instrument of the United Nations. The exchanges of views and the spirit of co-operation that it had promoted between administering and non-administering states had undoubtedly broadened horizons and benefited the work of the United Nations in that sphere. To jeopardize those advantages would be an unfortunate step, and one fraught with grave consequences for the United Nations.<sup>57</sup>

The Indian delegate argued that insistence on granting the Committee a permanent mandate might lead to the withdrawal of its membership by the United Kingdom. The Indian representative while speaking in the Fourth Committee expressed fear that the Committee which had been useful and served as a public forum of the non-self-governing people might lose its value if the United Kingdom withdrew its membership from the Committee.<sup>58</sup> Thus the views of India and the United States coincided on this particular point. Both these members were eager to preserve the Committee, and recognized its useful role.

By 1955 the majority of the United Nations members were agreed that their co-operation on the question of non-self-governing territories was crucial. Thus India, the Philippines, Mexico, Cuba, Pakistan, Burma, Thailand and others agreed to abandon their demand for the Committee's permanency. However, India, Indonesia, Poland, the Soviet Union, the Philippines and Mexico argued that the Committee should continue as long as there were non-self-governing territories.<sup>59</sup> The Indian delegate believed that the continuation of the Committee on Information was a duty which the Assembly owed to the peoples of the non-self-governing territories.<sup>60</sup>

A joint draft resolution was introduced by the Indian delegate on behalf of the Governments of Burma, Iraq and India.<sup>61</sup> This proposed the continuation of the Committee; however, no time limit was mentioned. An amendment was introduced by the representatives of China and United States proposing "...the continuation of the

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57. UNGAOR, Fourth Co. (10th Session), p. 111.

58. *Ibid.*, p. 671.

59. *Ibid.*, p. 50. (Indonesia)

60. *Ibid.*, p. 52.

61. U. N. Document A/AC. 33/L 209

Committee on Information from Non-Self-Governing Territories for a further three year period."<sup>62</sup> The amendment was adopted.

The joint resolution was adopted by the Fourth Committee by 40-1-2 votes. The United Kingdom, and the Union of South Africa abstained. Belgium alone voted against the resolution.<sup>63</sup>

The resolution received the support of the majority of members, only when the five power amendment, to this resolution proposed by the delegations of Burma, Liberia, Saudi Arabia, Syria and Thailand was withdrawn.<sup>64</sup> This amendment, if adopted, would have resulted in establishing the Committee on a permanent basis. According to the representative of Poland this withdrawal had gone a long way toward meeting the wishes of the administering powers.<sup>65</sup>

In reality the withdrawal of the joint amendment reflects the wisdom of the powers which had insisted on a permanent status for the Committee. They did not want to convert the Committee into an obsolete body. To preserve the efficacy of this organ they agreed to accept the Committee's continuation for an additional three year period.

The resolution proposing the confirmation of the Committee on Information for another three years on the same basis was adopted by the Assembly by 54-1-2 votes.<sup>66</sup>

### **1958 Discussions About the Extension of the Committee's Existence**

In late 1958 a joint draft resolution was introduced by the representative of the United States on behalf of his own government and those of Ceylon and India.<sup>67</sup> This proposed the continuation of the Committee for a further period of three years on the same basis.

Australia, the United Kingdom and France opposed the resolution. According to these members the Charter did not confer any right under article 73 to the Assembly to consider and discuss the information transmitted on non-self-governing territories.

62. *Ibid.*, A/AC. 35/L 215.

63. UNGAOR, Fourth Co. (10th Session), p. 119.

64. U. N. Document A/C 4/L. 393.

65. UNGAOR, Fourth Co. (10th Session), p. 118.

66. UNGAOR, Plenary Meetings (10th Session), p. 293 (UNGA Resolution 933 (X) November 8, 1955).

67. U. N. Document A/AC. 35/L. 289 (13th Session). Also UNGAOR, Supplement No. 15 (13th Session).

This was a radical change in the attitudes of Australia and the United Kingdom. Previously they had agreed to serve on the Committee if it was not accorded a permanent status, but in 1958 they opposed its very existence. However, these powers had all along considered the creation of the Committee as illegal and had cooperated in its work because of their desire for international co-operation. They had finally accepted that the Committee was necessary for the success of the cause for which the United Nations was established. The change in the British attitude in 1958 was the result of the efforts of India, Mexico, Cuba, Iraq, the Philippines, Venezuela, Pakistan, Poland, Union of Soviet Socialist Republics, and Yugoslavia to enhance the powers of the Committee and convert it into a permanent organ like the Trusteeship Council. These members had succeeded in getting the Committee continuously renewed since 1946. Moreover, these powers had gained the support of the United Nations majority on this issue. The United Kingdom, however, opposed the uninterrupted confirmation of the Committee, since its functions mainly procedural in nature, could have been completed earlier. Australian opposition to the continuation of the Committee was most probably prompted by its membership of the British Commonwealth and thus, the consequent desire to preserve its solidarity in the United Nations.

In late 1958, the resolution proposing the renewal of the Committee for another three years was adopted by the Assembly by 72-1-4 votes. The United Kingdom abstained and later explained the reason for its abstention, stating that the Committee was unconstitutional, and that the United Kingdom had recognized and continued to recognize that the majority of the United Nations members believed that a committee like the Committee on Information should exist. It was due to the weight it attached to the majority opinion that the United Kingdom had continued to participate in the Committee's work, but it could no longer vote for the Committee's further extension. The Australian delegate explained its abstention saying that some members were anxious to extend the powers of the Fourth Committee and the Assembly beyond the explicit provisions of the Charter by extending the Committee on Information, and he was opposed to this attempt.

Thus a survey of the debates regarding the creation of the Committee and the subsequent decisions of the General Assembly

show that all the United Nations members were willing to submit certain categories of information on their non-self-governing territories. However, divergent points of view prevailed regarding the body or person who should be entitled to receive this information. The conservative group took a strict interpretation of the Charter by demanding the creation of an *Ad Hoc* Committee in 1946. The conservative group wanted the Secretariat to receive the information required under Article 73e while the other group desired the creation of a committee. These two groups moreover, had different ideas about the manner in which this information should be used. The conservative group stressed the fact that the information was required for "information purposes." In contrast to this the other group argued that the information was required by the United Nations for the purpose of noting the degree of progress achieved by the non-self-governing territories, and for examining the methods employed by the administering powers to fulfil the sacred trust they had accepted.

The years following the opening session of the Assembly in which the question of establishing an implementing body was first raised, show a definite change in the attitudes of both these groups. The acrimonious debates over this question gradually subsided and a majority of members which supported a strict or conservative interpretation of Chapter XI accepted the necessity of having an implementing body like the Committee on Information. This change may have been the result of the appreciation for the Committee's contribution towards the creation of a better international understanding. Since the Committee had proved its worth as a useful forum for the exchange of views. Moreover, it may have been the result of the feeling that it was better to have the problems discussed in this Committee rather than to let the grievances which might arise from these add to international tension. Perhaps it was also because they concluded that it was better to have these matters discussed in the Committee on Information from Non-Self-Governing Territories where the division was equal between the two groups of powers, than in the Fourth Committee where the conservative group was greatly out-numbered.

The principal reason, however, for the acceptance of the necessity for the establishment of an implementing body and the need for its uninterrupted continuation, appears to be the fact, that

the "side really interested in involving the United Nations"<sup>68</sup> has mustered greater strength due to the growing membership of the anti-colonial countries in the Assembly. And thus, their bargaining position has enabled them to put pressure on the metropolitan powers, and manage the majority of votes required.

Administering powers, like the United States, acted as moderates between the two groups of powers. At times, when the opposing opinions seemed to threaten the existence and continuation of the Committee, this member presented compromise proposals acceptable to both groups and thus succeeded in preserving the Committee.

The group of members insisting on a liberal interpretation of Chapter XI, changed their views along with those of the other group. At the 1946 session of the Assembly, this group had advocated an implementing body quite similar to the Trusteeship Council, many of these nations had refused to recognize the difference between the provisions of the three Chapters. However, also at this very session they agreed to the creation of a temporary Committee with limited procedural powers and this was a compromise. From 1949 onwards, a few members of the liberal group tried to elevate the status of the Committee and obtain a permanent tenure for it. This may have been the product of the increase in their voting power and the softening of the attitudes of the administering powers on the question of the Committee's existence. However, their attempt to convert the Committee into a subsidiary organ of the General Assembly with a permanent tenure failed, due to the reluctance of a majority of members to accept their proposal. Some administering powers for example Belgium, France and the United Kingdom even threatened to withdraw their membership of the Committee. In the face of this threat and the ultimate withdrawal of Belgium, the liberal group had the wisdom to realize that a moderate attitude on this point would be wise in the long run. India acted as the moderator of the liberal group and changed the proposals so that they would be acceptable to the conservative group of members. The liberal group realized that the Committee on Information would be of very little use without the participation of certain administering powers who had a large number of non-self-governing territories. Also the proposals favouring a permanent tenure for the Committee had a very slim chance of

68. Harold Karan Jacobson, "The United Nations And Colonialism : A Tentative Appraisal," *International Organization*,

success against the disapproval of the conservative group. The liberal group realized that if they were ready to understand and accept the point of view of the other group they could obtain the support of the conservative group for the Committee's unbroken periodic extensions. This understanding prompted the liberal group to drop their insistence on a permanent tenure for the Committee. Thus by 1952 session the conflict between the two groups of members was not about the existence of the Committee but was over its tenure, since Belgium, France, and the United Kingdom were afraid that this was an attempt to convert the Committee on Information into a Trusteeship Council.

There was a small minority of the conservative group of members which held on to their belief that the Committee's existence was unconstitutional; Belgium, France and the United Kingdom belonged to this group. France and the United Kingdom occasionally argued on this line while Belgium invariably took this position. Ultimately even these members had to concede to the majority opinion and accept the Committee. However, they succeeded in defeating the attempts of the liberal group to create a committee which would be a total replica of the Trusteeship Council. Thus the continued existence of the Committee is the product of compromise between the two groups of members.

The second issue on which the members differed related to the information transmitted by the administering members. The question whether or not it was transmitted for "information purposes" only belongs to the chapter on the competence of the Committee and will be discussed later.

### **Issues Regarding the Composition of the Committee**

The membership of the Committee on Information has never included indigenous inhabitants of non-self-governing territories. However, since 1951 the question of work of this Committee and the inclusion of representatives of these territories in the delegations have been discussed and debated in the United Nations organs.

The initial draft resolution proposing the participation of non-self-governing territories in the work of the Special Committee, and recommending that the representatives of non-self-governing territories should be admitted to the Committee as associate members, was

introduced in the Fourth Committee in December, 1951.<sup>69</sup> The representative of Ecuador argued that this would encourage closer contact between the Special Committee and the peoples of non-self-governing territories. Moreover, this direct participation in the work of the Committee would equip these people to take an active role in international life later on.<sup>70</sup>

The Belgian and French delegates opposed this proposal. According to them, since the Committee's work was based on information supplied with respect to non-self-governing territories, there was no sense in associating them with the Committee. Moreover these members believed that the inclusion of indigenous inhabitants as representatives in the delegations should be left to the administering powers.

The Australian delegate supported the draft resolution. The British delegate supported the draft resolution in general but suggested certain alterations in its wording. He stated that the United Kingdom was eager to encourage "...the fuller participation of the non-self-governing territories in international life."<sup>71</sup>

The Fourth Committee adopted the draft resolution by 43-2-2 votes, with some minor alterations.<sup>72</sup> Belgium and France cast negative votes while Costa Rica and the Netherlands abstained. This was adopted by the Assembly by 47-2-7 votes.<sup>73</sup> Resolution 566 (VI) noted that there was special provisions in the constitutions of specialized agencies and regional commissions of the United Nations for the admission of peoples of non-self-governing territories as associate members if they were proposed by the administering members concerned. The resolution approved this practice and requested the Committee on Information to explore the possibility of associating the indigenous inhabitants more closely in its work. It further asked the Committee to report the results of this examination to the next session of the Assembly.

As recommended by resolution 566 (VI) passed in 1951, in 1952 the Committee on Information examined the possibility of associating

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69. U. N. Document A/C. 4/L. 146. Also UNGAOR, Fourth Co. (6th Session), p. 100.

70. *Ibid.*, p. 101.

71. *Ibid.*, p. 100.

72. *Ibid.*, p. 102.

73. UNGAOR, Plenary Meetings (6th Session), p. 355.



the indigenous inhabitants in its work. The representatives of Brazil, Cuba, Ecuador, Egypt, India and Pakistan introduced a proposal that the Committee should allow the participation in its work of representatives of the governments of non-self-governing territories the inhabitants of which had achieved a wide responsibility for economic, social and educational policies. However, the administering members concerned were to propose such participation by the indigenous inhabitants.<sup>74</sup> This proposal was opposed by the United States, Belgium, France, the United Kingdom, Australia and Denmark. However, they supported the view that there should be close association between non-self-governing territories and the United Nations. Four of the administering members stated that their governments considered the proposed associate membership in the Committee as a form of dual representation and that the Charter requirements for membership precluded the creation of associate membership in a committee of the Assembly. They pointed out that the administering members had in the past included their delegations inhabitants of the non-self-governing territories under their administration.<sup>75</sup>

Thus, proposals and amendments to these proposals were presented by the administering and non-administering powers. The administering powers opposed the "direct association" of representatives of non-self-governing territories, while the non-administering members emphasized the necessity of "direct association" of representatives of territories the inhabitants of which had attained a wide measure of responsibility for economic, social and educational conditions. This group of members believed that the participation of indigenous inhabitants in the work of the Committee which they advocated related only to deliberations and these representatives would not affect the decisions of the Committee; thus, there would be no question of dual representation.

A draft resolution was submitted by the delegates of Burma, India, Pakistan, and Indonesia in the Fourth Committee. This proposed that the administering members should continue and extend the practice of including qualified indigenous inhabitants in their delegations to the Committee.

Brazil and the United States proposed two separate amendments to the draft resolution, these amendments were accepted.

74. U.N. Document A/AC. 35/L. 116.

Also UNGAOR Supplement No. 18 (7th Session), p. 10.

75. U. N. Document A/AC. 35/SR. 67-71.

by the Fourth Committee.<sup>76</sup>

The Fourth Committee adopted the draft resolution in the amended form.<sup>77</sup> However, when the draft resolution was presented to the Assembly for its consideration, certain objections were raised by members against its adoption. The representative of France had objected in the Fourth Committee to separate representation, since division of responsibility was likely to reduce the efficiency of any administration. Now he argued against the resolution as he considered the association of representatives of non-self-governing territories in the work of the Committee as unconstitutional.<sup>78</sup> However, the Assembly adopted the resolution by 43-11-4 votes.<sup>79</sup>

Thus resolution 647 (VIII) recommended that qualified indigenous inhabitants from non-self-governing territories should be associated with the work of the Committee on Information. It also requested the administering members to submit copies of the reports on economic, social and educational conditions of these territories together with the relevant resolutions of the General Assembly, to the executive and legislative branches of these territories. Furthermore, the Committee on Information was asked to examine the question of participation of the indigenous inhabitants in the work of the Committee and report it to the Eighth Session of the Assembly.

In 1953 a joint draft resolution was introduced by Brazil, Cuba, Ecuador, India and Pakistan. This draft resolution was adopted by the General Assembly in an amended form and became resolution 744 (VIII). On the recommendation of the Committee on Information the Assembly also adopted resolution 745 (VIII).

By resolution 744 (VIII) the Assembly requested the administering members to attach to their delegations inhabitants of such non-self-governing territories as had attained sufficient responsibility in economic, social and educational policies, without prejudice to the principle of unity of representation. It asked the Committee on Information to continue to study the means of securing a progressive increase in the participation of duly qualified representatives of the peoples of non-self-governing territories in its work.

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76. U. N. Document AC/4/L. 227 and *Ibid.*, AC/4/L. 228.

77. UNGAOR, Fourth Co. (8th Session), p. 134.

78. UNGAOR, Plenary Meetings (8th Session), p. 345.

79. *Ibid.*, p. 355.

Thus the resolutions were adopted in spite of the objections raised by the representatives of France and the United Kingdom against dual representation of both the administering power and the non-self-governing territories, and the United Kingdom's objection against resolution 647 (VIII) because the "...Committees must remain associations of sovereign and responsible governments," and that they could not be converted into "...tribunals in which the States of the United Nations" could be confronted with the indigenous inhabitants of these territories.<sup>81</sup> But though the resolutions were adopted, it was not mandatory for the administering members to include the indigenous inhabitants in their delegations to the Committee ; they were requested to do so, and they were asked to include only such inhabitants as came from territories which already granted the indigenous inhabitants some competence to deal with economic, social and educational matters. Moreover, these representatives were to be able men who could speak effectively on these matters.

These resolutions were important since they recognized the importance of associating the indigenous inhabitants in the work of the Committee on Information. The inhabitants of Trust Territories could send petitions regarding their condition but they were not granted any right to attain membership in the Trusteeship Council. Its deliberations and decisions were in no way the concern of the indigenous inhabitants.

Some United Nations members desired to establish direct contact with the inhabitants of the non-self-governing territories and because of this they had proposed the inclusion of indigenous inhabitants in the delegations of the administering powers. The participation of the indigenous inhabitants in the work of the Committee would have meant greater United Nations supervision over non-self-governing territories, since, without relying totally on the reports, and representations of the administering members regarding their non-self-governing territories, the Assembly would have gained information from the indigenous inhabitants as well. However, the efforts of these powers for gaining direct representation of the indigenous inhabitants failed since the Assembly resolutions seemed to stress the theory of unity of representation. The indigenous inhabitants could be included in the delegations of

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81. UNGAOR, Plenary Meetings (7th Session), p. 344.

the administering powers, but the administering powers were left free to determine the composition of their delegations to the Special Committee. Moreover, though the Assembly resolutions recommended the inclusion of the indigenous inhabitants in the delegation of the administering powers, there was no way of compelling the administering powers. The resolutions were only morally binding and thus could be regarded only as an attempt to introduce representation of the indigenous inhabitants and to grant them an active role in their own affairs.

The non-administering members however, did not give up the attempt of associating indigenous inhabitants in the work of the Committee. In 1959, the Guinean representative introduced a draft resolution in the Fourth Committee to this effect.<sup>81</sup>

The representatives of Australia, New Zealand and the United Kingdom expressed reservations regarding the Guinean proposal. They felt that the draft resolution seemed to imply that the Secretary General had the right to scrutinize the membership of delegations of member states.<sup>82</sup> The Czechoslovak representative supported the resolution, and held that "the proposal would enable the representatives of the Non-Self-Governing territories to make a contribution to the work of the United Nations and at the same time to widen their range of experience."<sup>83</sup>

The Assembly adopted the resolution on December 12, 1959, by a vote of 66-0-3. Thus resolution 1466 (XIV) recommended that the direct association of the non-self-governing territories in the work of the United Nations and of the specialized agencies was an effective means of promoting the progress of these peoples and bringing them to a position of equality with member states of the United Nations. It requested that the administering members should recommend the names of indigenous inhabitants for members, associate members and observers in the specialized organs. It invited the member states administering non-self-governing territories in Africa to propose their participation in the Economic Commission for Africa. The resolution emphasized the importance of associating indigenous inhabitants in the delegations of administering members for the purpose of participating in the work of the Committee on Information and the Fourth Committee's discussions of matters relating to non-self-governing

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81. U. N. Document A/C. 4/L. 623.

82. UNGAOR, Fourth Co. (14th Session), pp. 572-573.

83. *Ibid.*, p. 573.

territories. The administering members were asked to submit to the Secretary General a report on the measures which they, might have taken to implement the resolution. The resolution requested the Secretary General to report to the Assembly's fifteenth session on the progress made in associating indigenous inhabitants in the work of the Committee on Information.

This resolution further emphasized the importance of the participation of the peoples of non-self-governing territories in the work of the Committee on Information. By this resolution the inhabitants of all the non-self-governing territories were to be encouraged to participate in the Committee's deliberations and there was no mention of the territories especially advanced in economic, social and educational matters. This was extremely important since the Committee on Information was not a purely technical body but often dealt with important political matters related to non-self-governing territories.

However, how far these recommendations were put into practice remains to be seen ; one can only conclude that the resolutions passed by the General Assembly regarding the participation of the indigenous inhabitants were attempts to make the administering members conscious of the necessity of associating these inhabitants in their delegations. The efforts of the other members of the United Nations to establish direct contact with the representatives of non-self-governing territories failed, but this failure was significant since in later years the non-administering members succeeded in establishing direct contact between the United Nations and the non-self-governing territories.<sup>84</sup>

### **Functional Experts**

In December 1949, by Assembly resolution 333 (IV) the Committee on Information was requested to give special attention to the study of one functional field each year. Thus, educational, economic and social matters were considered by the Committee in rotation. This study had been assisted by the action of states which were members of the Committee on Information, since they had associated with their delegations persons specially qualified in the functional fields studied by the Committee.

By resolution 745 (VIII) the Assembly appreciated the action

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84. This development came much later than the year 1959, so I intend to deal with it in detail in my second book.

of those members which had included functional experts in their delegations. It requested the members of the Committee which had not done so to associate with their delegations persons specially qualified in the functional fields within the Committee's purview.

In 1954, the question of functional experts was taken up by the Committee on Information. Some members drew attention to the different ways in which the associate membership of non-self-governing territories in such bodies as the Economic Commission for Asia and the Far East and several specialized agencies had increased since 1952.

The representative of India introduced a draft resolution, which requested the Committee to study ways by which non-self-governing territories might participate in the work of the Committee besides being associated with the delegations of the administering members.<sup>85</sup>

However, since it was an important question which could not be considered in the short time left for its discussion, it was decided to postpone its consideration until the next session of the Assembly. However, in response to the request made by resolution 745 (VIII) specialist advisers on economic affairs were included in the delegations of Brazil, Denmark, France, the United Kingdom and the United States.<sup>86</sup>

The resolution dealing with the question of associating indigenous inhabitants in the work of the Committee and that of recommending the inclusion of functional experts from non-self-governing territories in the Committee on Information influenced questions regarding the competence of the Committee. Certain proposals were made regarding the granting of a permanent tenure to the Committee, which, if adopted, would have enhanced the competence of the Committee and would have resulted in creating a committee even more powerful than the Trusteeship Council. However, the failures of these resolutions imply the desire of the majority of the United Nations members to use restraint in liberalizing the provisions of Chapter XI.

The uninterrupted existence of the Committee since its inception amounts to its being permanent. This is partly due to the voting

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85. U.N. Document A/AC. 35/L.182. Also UNGAOR, Supplement No. 18 (9th Session), p. 11.

86. *Ibid.*, p. 2.

strength of the powers supporting its indefinite continuation and partly due to the support of other members, anxious to preserve it as a useful forum.

In conclusion one can say that the attempts of some members to establish the Committee on a permanent basis have failed. But these members have succeeded in obtaining a continued existence for the Committee and it does not make any difference that the draft resolutions proposing a permanent status for the Committee were not accepted. However, the Committee's continued existence is the product of a compromise between the two groups of powers. Since, except a few administering powers which took an extreme view of the situation, the majority of members have recognized the importance of preserving the Committee on Information. Consequently, an implementing body has been created which was not provided for by the Charter. This Committee, like the Trusteeship Council, aims at preserving the balance between administering and non-administering members in its composition.

The creation and continuance of the Committee on Information has a great significance. Its creation means the establishment of international accountability and supervision on the non-self-governing territories. It considers, examines and makes recommendations both procedural and substantive in nature regarding the information transmitted by the administering members. It is a continuous body but not a permanent organ like the Trusteeship Council. However, the creation of the Committee has certainly initiated the process of assimilation between the non-self-governing territories and the trust territories. The gap between the provisions of Chapters XI and XII has been narrowed. The United Nations Charter provided two different systems for the non-self-governing territories and the Trusteeship territories. The Assembly decisions have been successful in diminishing the differences between the two different systems.

## CHAPTER IV

### Political Information

Sub-paragraph "e" of Article 73 does not mention the word *Political*. This made it difficult to determine whether or not the transmission of political information was required by the Charter. The members in favour of the transmission of political information based their arguments on sub-paragraph "a" and "b" of the same article. The conservative members were opposed to this interpretation and quoted the proceedings of the San Francisco Conference where such a controversy was solved by omitting the word *political* from Article 73e. However, since the existence of the Committee was the product of General Assembly decision the controversy around the transmission of political information shifted its focus of attention and both sides tried to strengthen their contentions by basing them not only on the Charter provisions but the Assembly decisions as well.

Thus, whether or not the Assembly and the Committee on Information should receive political information was disputed. Moreover, closely related to the previous issue were the questions if political information could be received by these bodies, could they also discuss and analyze such information and was the Committee authorized to make recommendations regarding the non-self-governing territories on the basis of conclusions reached by the Committee.

#### **The Demand for Political Information**

In the first session of the Assembly in late 1946, questions regarding the nature of information required to be submitted by Article 73 were debated in the Fourth Committee and the General Assembly. Various interpretations were offered by the members. The majority of members were in agreement that the United Nations Charter did not mention the transmission of political information on non-self-governing territories. The Soviet Union, Poland and some other countries of the Soviet bloc contested this opinion.

The representative of Poland argued that since other parts of



this Article mentioned the word "political" its omission from sub-paragraph "c" was not significant. He supported the obligatory transmission of political information by the administering members.<sup>1</sup>

The representative of India was in partial agreement with this point of view. However, he said that a strict interpretation of Article 73e could not justify the obligatory transmission of political information. Yet, according to the Indian delegate, since the other sub-paragraphs of the same article emphasized political advancement and the progressive development of free political institutions, it was desirable that political information should be supplied.<sup>2</sup>

The Soviet delegate argued that in order to implement the obligations mentioned in sub-paragraphs "a" and "b" it was necessary to receive political information.<sup>3</sup>

These powers considered Article 73 to be a unit, and argued in favour of its indivisibility. They emphasized the ultimate objective of Chapter XI. According to these members, every interpretation should coincide with the ultimate objective of the Chapter. They felt that other parts of Article 73 supplemented sub-paragraph "c" and, therefore, the obligations of the administering members could not be judged solely by the specific provisions of the last sub-paragraph of this Article.

According to Australia, Belgium, France, the United Kingdom and the United States, the only specific obligations ensuing from the provisions of Article 73 were those mentioned in sub-paragraph "c".

However, according to the representative of Australia, though the sub-paragraph did not mention political information, its voluntary transmission was desirable. Thus though this representative contributed to the conservative point of view, his position was moderate compared to some other members of this group.<sup>4</sup>

The French delegate argued against the compulsory transmission of political information, stating that the provisions of Article 73e were clear and precise. He felt that the provisions were meant to be limitative. Thus, according to this delegate the omission of

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1. UNGAOR, Fourth Co. (1st Session, Part III, Sub. Co. 2 Report), p. 14.

2. *Ibid.*, p. 12.

3. *Ibid.*, p. 12.

4. *Ibid.*, p. 13.

political information from this sub-paragraph was intentional and the member nations were to make the decision regarding the transmission of political information.<sup>5</sup>

• The representatives of Belgium and the United Kingdom supported this point of view and argued against the transmission of political information on a compulsory basis.

According to the delegate of the United Kingdom the question of the nature of information to be transmitted was given in the text of Article 73e. It specified "statistical and other information of a technical nature relating to economic, social and educational conditions..."<sup>6</sup>

There were three different attitudes regarding the transmission of information among the members. India, China and Australia, among others believed that the transmission of political information was not obligatory, but its transmission was desirable in order to implement other parts of this Article. The Soviet Union and Poland argued that the transmission of political information was necessary in view of the ultimate aim of Chapter XI and so should be treated as obligatory. These members took an extreme position opposed to that adopted by the third group of powers. This third group, including the representatives of Belgium, France and the United Kingdom argued that since the demand for political information had no root according to the Charter provisions, it should be abandoned.

This issue came up again in the *Ad Hoc* Committee in late 1947. During the debate the representatives of China, Egypt, India, the Philippines and the Soviet Union maintained their earlier position. These members argued that since economic and social factors, were inextricably connected with political factors, it was not possible to separate them. According to these powers, the Committee on Information could not only receive but could also consider and analyze political information.<sup>7</sup> The representatives of Egypt and the Soviet Union felt that the transmission of information regarding the promotion of self-government was essential and this justified the demand for the transmission of political information.<sup>8</sup>

The representatives of Australia, Belgium, Brazil, France, the Netherlands, the United Kingdom, and Uruguay contested this point

5. *Ibid.*, p. 13.

6. *Ibid.*, p. 12.

7. U.N. Document A/385. Also UNGAOR, Fourth Co. (2nd Session), p. 205.

8 *Ibid.*, p. 205. Also U.N. Document A/385.

of view. According to them, since the Secretary General did not submit any analysis related to the political life of a non-self-governing territory, the *Ad Hoc* Committee could not receive such information; furthermore, the consideration and analysis of this information were outside the terms of reference of this Committee.<sup>9</sup>

Thus these powers believed that the Committee's competence extended only over the subjects included in the Secretary General's analysis.

Subsequently, it was noted that some members had submitted to the Secretary General information relating to the development of self-governing institutions in their non-self-governing territories. It was recognized that there should be no objection to the inclusion of this kind of information in the Secretary General's summary. Moreover, the members, agreed that the powers responsible for the administration of non-self-governing territories might voluntarily transmit information relating to the development of self-governing institutions in their territories.<sup>10</sup> This point of view finally found expression in a draft resolution, which was accepted by the *Ad Hoc* Committee.<sup>11</sup> In essence, the draft resolution declared that the voluntary transmission of political information was in conformity with the spirit of Article 73. It stated that since some members had submitted such information, others should be encouraged to follow their example.

The Soviet Union submitted a number of proposals in the *Ad Hoc* Committee. These proposals dealt with the transmission of details related to the political life of non-self-governing territories. It proposed that the administering authority should be asked to transmit details regarding the participation of the population in the local organs of administration; the Secretary General should be authorized to receive information from local organizations; United Nations representatives should be sent annually to the non-self-governing territories to make on-the-spot investigations of the conditions prevailing in these territories. These proposals were introduced separately by the Soviet Union and were finally rejected by the Committee.<sup>12</sup>

9. *Ibid.*, Also UNGAOR, Fourth Co. (2nd Session), p. 205.

10. *Ibid.*, p. 205.

11. U.N. Document A/385, p. 18.

12. *Ibid.*, A/385. Also UNGAOR, Fourth Co. (2nd Session), pp. 205-

The draft resolution regarding the voluntary transmission of political information came to the Fourth Committee for consideration. The representatives of Belgium, France, the United Kingdom the United States and Uruguay regarded Chapter XI as a multilateral declaration. The representative of France, emphasizing the unilateral character of Chapter XI, argued that Article 73e did not confer on the United Nations the power of supervision over non-self-governing territories.<sup>13</sup> He argued that the transmission of technical information relating to economic, social and educational conditions was required by Article 73e while political information was intentionally omitted due to the result of the San Francisco discussions. According to him, even the information required under Article 73e was to be transmitted only for "information purposes", and thus could not be examined. He believed that the United Nations could not make any recommendations regarding this information.<sup>14</sup>

According to the representative of Belgium, "Article 73 did not ask for information on the degree of self-government" but asked for information on good government.<sup>15</sup>

Thus these representatives were opposed to the obligatory transmission of political information but the majority of administering powers supported the voluntary transmission of this information.<sup>16</sup>

The representatives of the Netherlands and the United States promised their support to the draft resolution recommended by the *Ad Hoc* Committee if it emphasized the voluntary nature of the transmission of political information.<sup>17</sup>

The British delegate, however, opposed the adoption of any such resolution. He believed that the non-self-governing territories under the British administration would themselves resent such interference in their constitutional development and their relationship with the United Kingdom.<sup>18</sup>

At this Fourth Committee session the representatives of Egypt, India, Pakistan, Poland, the Ukrainian S. S. R., the Bylorussian

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13. *Ibid.*, p. 35.

14. *Ibid.*, p. 36.

15. *Ibid.*, p. 33.

16. U.N. Document A/C. 4/105. Also UNGAOR, Fourth Co. (2nd Session), p. 215.

17. *Ibid.*, pp. 28, 39.

18. UNGAOR, Plenary Meetings (2nd Session), p. 726.

S. S. R., the Soviet Union, Yugoslavia and Columbia argued that the administering members had a definite obligation to submit political information. The Soviet representative, together with the representative of Pakistan, held that Chapter XI was a treaty which had been accepted by the member states. Thus it had the same mandatory powers as other parts of the Charter. They believed that since the administering powers had accepted the sacred trust of looking after the paramount interests of the non-self-governing peoples, and had agreed to encourage the advancement of the political institutions of these territories, it followed that all the members of the United Nations had the right to be informed of the manner in which the administering members were fulfilling this obligation.<sup>19</sup>

Subsequently three amendments to the draft resolution were proposed in the Fourth Committee. The amendment introduced by Brazil stated that the voluntary transmission of information on the development of self-governing institutions in the non-self-governing territories and its summarizing by the Secretary General were highly desirable, and in conformity with the Charter. Therefore, the amendment recommended that it should be noted and encouraged.<sup>20</sup>

Another amendment presented by the French delegate proposed that the voluntary character of the transmission of political information should be emphasized. It noted that though this information was not obligatory, it deserved to be noticed and encouraged.<sup>21</sup>

The third amendment introduced by the Soviet delegate proposed an alternative text to be substituted for the draft resolution under consideration.<sup>22</sup> It stated that since the administering members had undertaken the obligation to develop self-government, and to take account of the political aspirations of the non-self-governing peoples, they were answerable to the Assembly. Moreover, since these powers were responsible to develop free political institutions in their non-self-governing territories according to the circumstances prevailing in the territories concerned, it followed that the General Assembly could receive and consider the information relating to the participation of the population in the local administrative bodies of these

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19. *Ibid.*, pp. 684-685, 705.

20. U.N. Document A/C. 4/106.

21. U.N. Document A/C. 4/105.

22. *Ibid.*, A/C. 4/111.

23. *Ibid.*, A/AC. 4/111.

territories. This amendment emphasized that such information was necessary for judging the progress achieved in the direction of self-government specified by Article 73e. Consequently, this amendment requested the Assembly to ask the administering members to submit political information.

At the request of the Chairman the Soviet amendment was put to vote at the 42nd meeting of the Fourth Committee held on October 11, 1947. The Chairman stated that the Soviet amendment should be put to the vote first since the adoption of this amendment would make it unnecessary for other amendments to be put to vote. The amendment was adopted by a vote of 20-19-0.<sup>24</sup>

When this draft resolution came before the Fourth Committee for consideration, the representatives of Brazil, Denmark, France, the Netherlands, Nicaragua, the United States and Uruguay protested against the adoption of the resolution. They held that the draft resolution was unacceptable since a recommendation by the Assembly that the administering powers should transmit political information implied a moral obligation and amounted to giving the United Nations jurisdiction in matters related to non-self-governing territories. According to these members, this jurisdiction was not based on the provisions of Chapter XI of the Charter. These members submitted a joint amendment to the draft resolution,<sup>25</sup> which proposed the adoption of the text of the original resolution recommended by the *Ad Hoc* Committee.

The Assembly rejected the draft resolution recommended by the Fourth Committee by a vote of 25-17-9,<sup>26</sup> and adopted the joint amendment by a vote of 44-2-5<sup>27</sup>

Thus resolution 144 (II) adopted by the Assembly on November 3, 1947, requested voluntary transmission of political information. It mentioned that some administering powers had already transmitted information on the development of self-governing institutions in their non-self-governing territories. Thus the Assembly considered the voluntary transmission of political information and its summarizing by the Secretary General to be in conformity with the spirit of Article 73e.

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24. UNGAOR, Fourth Co. (2nd Session), p. 71.

25. U.N. Document A/437.

26. UNGAOR, Plenary Meetings (2nd Session), p. 732.

27. *Ibid.*, p. 732.

The adoption of this resolution was an attempt toward the assertion of broader competence by the Assembly. This urge of the Assembly to enhance its competence along with that of the Committee on Information was the product of the willingness of the majority of administering powers to accept it. These administering powers had voluntarily submitted political information on their territories, and this prompted the Assembly to request the remaining administering powers to transmit it. However, the extreme proposals recommended by the Soviet Union were defeated since there was a general feeling among the members that the administering powers were not obliged to submit political information. However, the recognition that the transmission of political information was desirable placed the members not submitting this information in an unfavourable position. This resolution purported to increase the competence of the Committee on Information, since the inclusion of political information in the Secretary General's summaries would authorize the Committee to make recommendations to the Assembly.

Subsequently resolution 222 (III) was adopted by the Assembly in relation to the question of cessation of the transmission of information. It further recognized the necessity of the transmission of political and constitutional information by the administering powers.<sup>28</sup> Though adopted in a different context, this resolution tried to add to the competence of the Committee on Information. It authorized the Secretary General to receive constitutional information on particular territories under certain circumstances. Besides, it gave the Assembly the competence to guide the administering members in making the final decision regarding the political status of their territories. The Assembly's power of suggestion and guidance was accepted, though the administering members still reserved the right of making the final decision. This resolution was surely an attempt to make the transmission of political and constitutional information obligatory to a certain extent, since in order to give suggestions and guidance to the administering members regarding the political status of their territories, the Assembly had to possess all the information pertaining to the political life of the territory concerned. However, there was a limit to this power, since the consideration of a territory's status could only be possible if the administering power informed the Assembly of its desire to cease transmitting information on a particular territory.

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28. Resolution 222 (III) is discussed in Chapter VII.

In 1948 the Assembly did not make any specific recommendations regarding the voluntary transmission of political information.

In 1949 this question was discussed by both the Special Committee and the Fourth Committee. The Indian representative, while introducing a draft resolution, expressed appreciation for the members who had submitted information under the optional category of the Standard Form <sup>29</sup> Some of this information included details on the development of self-governing institutions. The Indian delegate said that Assembly resolution 144 (II) recognized the voluntary transmission of political information to be in conformity with the Charter. The draft resolution introduced by this representative proposed that the Assembly should invite members not transmitting political information to "include all such information in their reports to the Secretary General."<sup>30</sup>

The Soviet representative proposed an amendment to the Indian resolution, recommending that the transmission of information on the development of organs of self-government and on the degree of participation of the indigenous inhabitants in local organs of self-government should be made obligatory.<sup>31</sup> Some representatives argued that the information voluntarily submitted by the administering members was before the Committee for its information and could not be discussed. These powers further argued that resolutions on this subject could not be considered by the Committee.<sup>32</sup> Since this was a controversial question, a vote was taken by the Committee, and by 7-4-0 votes the Committee decided in favour of its competence to consider such questions and make recommendations on them in the form of resolutions.<sup>33</sup> The Indian draft resolution was adopted by the Committee in its revised form.

When this draft resolution came before the Fourth Committee, the representative of Cuba proposed an amendment to the effect that the Assembly should express the hope that members not transmitting political information would voluntarily transmit details on the government of non-self-governing territories. It further proposed that at the

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29. The Standard Form is discussed in the next Chapter. This was an outline prepared for the guidance of administering members when transmitting information on their non-self-governing territories.

30. U.N. Document A/923. Also UNGAOR, Supplement No. 14.

31. *Ibid.*, A/923. p. 4.

32. *Ibid.*, A/923. p. 4.

33. *Ibid.*, p. 4.



time of the revision of the Standard Form, general information on geography, history, people and human rights should cease to be classified as optional.<sup>34</sup>

Several members opposed the draft resolution and the proposed amendment to it. The representatives of Belgium, Canada, France, and the United Kingdom argued in the Fourth Committee that these were beyond the Charter provisions. The representative of the Netherlands and the United States agreed with these representatives that the administering members were not obliged to transmit political information, thus its transmission should remain optional.<sup>35</sup>

In contrast, the representatives of Syria, the Soviet Union and others believed that the information included in the optional category of the Standard Form, including information on government was essential for the purpose of judging the social, economic and educational situation in the territories and thus should be made obligatory.<sup>36</sup>

The Cuban amendment was adopted by the Fourth Committee by a vote of 29-11-5.<sup>37</sup> The resolution was adopted by the Fourth Committee in its amended form by 25-8-7 votes.<sup>38</sup>

Though the representatives of France, the United Kingdom and the United States opposed the resolution, it was adopted by the Assembly on December 2, 1949 by a vote of 33-9-11.<sup>39</sup>

Thus Assembly resolution 327 (IV) stated that at the time of revising the Standard Form general information on geography, history, people and human rights should not be classified as optional. It further expressed the hope that the members which did not transmit voluntary information on the development of self-governing institutions in the non-self governing territories should transmit this information in the future. This in a way constituted an appeal by the Assembly for the transmission of political information. The importance of the transmission of political information was accepted by the Assembly and an attempt was made by it to get political information from the remaining administering powers.

34. U.N. Document A/C. 4/L. 2 para. 1.

35. UNGAOR, Fourth Co. (4th Session), p. 138.

36. *Ibid.*, pp. 105, 124, 131.

37. *Ibid.*, p. 140.

38. *Ibid.*, p. 140.

39. UNGAOR, Plenary Meetings (4th Session), p. 461.

In 1951, the governments of Australia, Denmark, the Netherlands, New Zealand, and the United States submitted information on political matters.

The Philippine representative suggested in the Committee on Information that the remaining three administering members should be asked to furnish political information for discussion by the Committee. He further requested that the states transmitting political information should furnish more detailed information.<sup>40</sup>

The French representative opposed the transmission of political information, since he felt that this might amount to the surrendering of certain sovereign rights of the administering members. Moreover, he argued that since political information transmitted by some administering members had been criticized in the past, it was better that this information should not be transmitted.<sup>41</sup>

Though the United Kingdom was opposed to the transmission of political information, its representative mentioned the transmission of some political information by its Government which was considered necessary for the understanding of other information.<sup>42</sup>

The representatives of Denmark and the United States had always voluntarily submitted political information on their non-self-governing territories. In 1951, when the issue of transmitting political information was discussed by the Fourth Committee in relation to the revision of the Standard Form, the representatives of Australia, Belgium, France, Denmark, the Netherlands, Norway, Sweden, New Zealand, Canada and the Union of South Africa opposed the inclusion of political information in the obligatory category.

The British delegate argued that the Fourth Committee was a technical committee and thus it could not discuss political matters. He further held in the Fourth Committee that the Charter had specifically mentioned the difference between the two systems provided for the non-self-governing territories and the Trusteeship Territories. Moreover, the information required on these two categories of territories was specifically written. Thus since there was no provision for the transmission of political

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40. UNGAOR, Supplement No. 17 (5th Session), p. 10.

41. *Ibid.*, p. 10.

42. *Ibid.*, p. 10.

information on non-self-governing territories, he believed that the attempt to force the Committee to consider political matters would be tantamount to a revision of the Charter.<sup>43</sup>

This issue came up for discussion again at the 1952 session of the Assembly. The United States Government, though transmitting political information, was opposed to the efforts of the Assembly and the Committee on Information to review the political and constitutional actions of the administering members. It recognized the Assembly's competence to lay down principles for the guidance of members but denied its right to enter into the inner legislative processes of member states.<sup>44</sup>

The Australian delegate supported this point of view and further held that the argument that Article 73 should be interpreted as a unit, was not valid.<sup>45</sup>

The representatives of Cuba and Poland opposed these arguments. They held in the Fourth Committee that the ultimate purpose of Chapter XI was the recognition of the fact that the non-self-governing territories would become self-governing. Thus, according to them, the transmission of political information was necessary in order to fulfil the ultimate objective of Chapter XI.

The Cuban representative argued in favour of considering Chapter XI as an indivisible whole ; sub-paragraphs "a" and "b" required the transmission of political information, for the United Nations to decide the degree of technical advancement achieved by the non-self-governing territories. Moreover, he felt that the degree of technical advancement could help in determining the political progress which could be expected.<sup>46</sup>

The Polish delegate further argued that voluntary contractual agreements can have binding obligations which must be observed. He believed that persistent refusal on the part of administering members to submit political information constituted a violation of the

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43. *UNGAOR*, Fourth Co. (6th Session), p. 51,

44. *Ibid.*, (7th Session), p. 166.

45. *Ibid.*, p. 70.

46. *Ibid.*, p. 75.

47. *Ibid.*, p. 75. Article 6 of the United Nations Charter states "A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the organization by the General Assembly upon the recommendation of the Security Council."

Charter and could lead to the application of the sanctions provided for in Article 6 of the Charter.<sup>47</sup>

Thus, though the majority of administering members were willing to submit political information, they resented any attempts on the part of the Assembly to make the transmission of political information obligatory. Furthermore, the administering members were not prepared to endow the Assembly with the power of analyzing the political and constitutional life of their dependencies, since this, according to them, amounted to an infringement of their sovereign rights and it would be contrary to the provisions of the domestic jurisdiction clause.

This was an extreme position adopted by the Polish delegate. He considered the transmission of political information as obligatory. He argued that since the administering members had accepted Chapter XI as part of the Charter and acceded to all its provisions, they had also accepted the binding legal obligations which followed the signing of this international agreement.

At the 1952 session of the Assembly the Third Committee discussed the question of the right of peoples and nations to self-determination. This discussion and the subsequent decisions of the Third Committee and the Assembly influenced the issue of transmitting political information and thus deserve consideration.

In 1952 the representative of Lebanon introduced a draft resolution to the Third Committee.<sup>48</sup> This resolution was based on a similar draft resolution introduced by the Economic and Social Council and prepared by the Commission on Human Rights. The Lebanese draft resolution was discussed by the Third Committee. The draft resolution was subsequently adopted by the Third Committee in its amended form by a vote of 38-10-4. All the administering members, Canada and the Union of South Africa voted against it. Sweden, Thailand, Turkey and Denmark abstained.<sup>49</sup> The resolution was recommended by the Third Committee to the Assembly.

The Polish delegate supported the adoption of this draft resolution. He believed that the adoption of this resolution would facilitate the fulfilment of the obligation which the United Nations

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48. U. N. Document, A/C. 3/L. 293,

49. UNGAOR, Third Committee (7th Session), p. 284.

had accepted toward the dependent peoples. According to him, the resolution made it easier for the Assembly to obtain information regarding the political progress of dependent peoples.<sup>50</sup>

The Belgian delegate opposed this point of view. He felt that the adoption of this resolution would extend the competence of the Committee on Information to an area in which his government had persistently challenged its competence. Thus, according to this delegate, the adoption of the resolution would constitute a new fact which his government would have to take into account. His government's participation in the future work of the Committee would depend on the result of this consideration.<sup>51</sup>

The Australian and French representatives supported this point of view since it constituted an attempt to make the transmission of political information obligatory. The Australian delegate felt that this was an attempt to change the Charter "by means of recommendations." The French representative further argued that it was an attempt to make the Committee on Information more unconstitutional than it was already.<sup>52</sup>

However, at its 403rd plenary meeting of December 16, 1952 the Assembly adopted this resolution. The vote was 39-12-5. Resolution 637 B(VI) stated that in order to promote the right of self-determination of peoples of non-self-governing territories, it was necessary for the United Nations' organs to receive political information on these territories. It noted that though Assembly resolutions 144(II) and 327 (IV) had requested voluntary transmission of political information, some administering members had not furnished this information. The Assembly requested these members to transmit information regarding the way in which the right of peoples and nations to self-determination was being exercised in non-self-governing territories. Especially, information regarding the political progress and the methods employed by the administering members to develop the capacity of these peoples for self-administration was requested.

The adoption of this resolution was an attempt to increase the competence of the Committee on Information. However, the question of transmitting information on the political development

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50. UNGAOR, Plenary Meetings (7th Session), p. 370.

51. *Ibid.*, pp. 371-372.

52. *Ibid.*, p. 373.

of non-self-governing territories was again debated at the ninth session of the Assembly.

.The representatives of Burma, Egypt, Lebanon, and the Philippines submitted a draft resolution in the Fourth Committee. This draft resolution emphasized the fact that some administering members had not transmitted political information as had been requested by Assembly resolutions.<sup>53</sup>

The representative of Yugoslavia criticized this resolution since it did not recognize the transmission of political information by some administering members. He further stated that though the political information transmitted by some members had not been sufficient, it still deserved recognition.<sup>54</sup> The representative of El Salvador supported this view. Thus, in response to these opinions the sponsors of the previous draft submitted a revised draft.<sup>55</sup>

The representatives of Australia, Belgium, France, the Netherlands, New Zealand and the United Kingdom opposed this draft resolution. According to them, the Committee on Information and the Fourth Committee did not have the competence to discuss such matters.<sup>56</sup>

The delegates of Greece, Iraq, Lebanon and the Philippines supported the Fourth Committee's competence to consider political problems in the larger perspective of Article 73 as a whole.<sup>57</sup>

The representative of the Philippines argued that the basic principles underlying Chapters XI, XII and XIII were the same. Thus, according to him, if the United Nations had the authority to discuss the political advancement of the territories which had only twenty million people, it would not be just if it was precluded from examining the political conditions in the non-self-governing territories where the future of two hundred million people was involved.<sup>58</sup>

The Indian representative supported this point of view and urged that Article 73 should be read as a whole. According to this representative, though political information was not required by

53. U. N. Document A/C. 4 L. 349.

54. UNGAOR, Fourth Co. (9th Session), p. 181.

55. U. N. Document A/C. 4/L. 349/Rev. 1.

56. *Ibid.*, UNGAOR, Fourth Co. (9th Session), p. 184.

57. *Ibid.*, pp. 157, 164.

58. *Ibid.*, p. 88.

Article 73, it was also not prohibited. He further argued that the transmission of political information was necessary for implementing the provisions of Chapter XI.<sup>59</sup> The Indian representative maintained his original stand that though the administering members were not obliged to transmit political information, its voluntary transmission was desirable.

The representatives of Australia, Denmark and the United States emphasized the futility of putting pressure on the administering members, since this would injure the prestige of the United Nations.<sup>60</sup>

However, the draft resolution was adopted by the Fourth Committee in its revised form. The vote was 36-9-4. The Assembly adopted this resolution on November 22, 1944, by 42--10-3 votes.<sup>61</sup>

Thus Assembly resolution 848 (IX) stated that the responsibilities of the Assembly related to political as well as to economic, social and educational advancement of the non-self-governing peoples. By its previous resolutions the Assembly had tried to obtain voluntary submission of political information on non-self-governing territories. But since some administering members had not submitted such information, the Assembly invited the administering members to co-operate fully with the United Nations in furnishing this information.

Thus, the resolution was an attempt to further reiterate the Assembly's right to receive political information. This also constituted an attempt to enhance the competence of the Committee on Information since the Committee, acting on the basis of the Secretary General's summary, handled the information in its initial stages. Furthermore, the Assembly acted according to the recommendations of the Committee on Information and these recommendations were sometimes presented to the Assembly in the form of draft resolutions discussed and adopted by the Committee. These resolutions proposed to enhance the Committee's competence and elevate it to a political and policy-making body. These resolutions attempted to give the Committee the power to prepare the initial proposals for Assembly decisions regarding the development of self-government in non-self-governing territories.

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59. *Ibid.*, p. 106.

60. *Ibid.*, p. 108.

61. *Ibid.*, UNGAOR, Plenary Meetings (9th Session), p. 291.

**Other Issues Related to the Transmission of Political Information.**

The representatives of Cuba, Ecuador, Egypt, El Salvador, Greece, Guatemala, Syria and Yugoslavia proposed a draft resolution in the Fourth Committee in 1955.<sup>62</sup> This proposed that the Assembly should examine on the basis of information transmitted by the administering members the degree of progress achieved by the non-self-governing territories since the establishment of the United Nations. The draft resolution considered that this examination would reveal the extent to which these non-self-governing territories had advanced toward the goal set by Chapter XI. The Secretary General was requested to submit a report on this question to the eleventh session of the Assembly. He was asked to mention in consultation with the Specialized Agencies the main points which deserved the Assembly's consideration. The Fourth Committee accepted the draft resolution by 39-0-12 votes.<sup>63</sup> The Assembly adopted it by a vote of 45-0-12.<sup>64</sup>

At the eleventh session of the Assembly, whether the report on the progress of non-self-governing territories should include political information was debated in the Fourth Committee and the Assembly. Disagreements prevailed on the question whether the administering powers should be required to prepare the reports on the basis of categories mentioned in the Standard Form or they should include other categories of information not included in this form.

The representative of Czechoslovakia believed that since the status of non-self-governing territories was temporary and the administering members had the task of encouraging the advancement of these territories towards independence, and thus shorten this period of dependence, it followed that the progress of these territories was an indivisible whole. Consequently, according to him, the political aspect could not be separated from the other aspects.<sup>65</sup>

Resolution 1053 (XI) was adopted by the Assembly on February 20, 1957 by 65-3-3 votes.<sup>66</sup> This resolution requested that

62. U. N. Document A/C. 4/L. 397.

63. UNGAOR, Fourth Co. (10th Session), p. 107.

64. UNGAOR, Plenary Meetings (10th Session), p. 293.

65. UNGAOR, Fourth Co. (10th Session), p. 279.

66. UNGAOR, Plenary Meetings (11th Session), p. 1179.



the Secretary General should keep the Committee on Information informed of the progress of the report assigned to him and should submit a report to the 1959 session of the Assembly based on the information transmitted by the administering members.

The Assembly had left the transmission of political information as optional. The administering members were requested by the various Assembly resolutions to submit this information but these resolutions recognized that the administering members were not obliged to submit political information.

At the 1959 session of the Assembly the progress achieved by non-self-governing territories in economic, social and educational fields was considered in the Fourth Committee.

The representative of India expressed appreciation in the Committee on Information that the governments of Australia, the Netherlands, New Zealand and the United States had voluntarily transmitted political information on their non-self-governing territories. He emphasized the necessity of submitting this information.

At this session, the representatives of Ghana, Panama, India and Yugoslavia submitted a draft resolution to the Fourth Committee relating to the voluntary transmission of information on political developments in non-self-governing territories. It proposed that the Assembly should endorse the Committee on Information's observation that rapid progress in other fields was usually possible in territories where the local inhabitants participated extensively in political bodies which were authorized to develop and lay down policies and to vote budgets.

It further proposed that the administering powers should encourage effective participation of the inhabitants in these political bodies, and grant them power to do so. Thus the transferring of effective power was considered necessary in order to accelerate social, economic and educational advancement. The transmission of political information was thought necessary for the purpose of assessing other kinds of progress.

The representative of Iraq introduced an amendment to this resolution. This proposed the inclusion of information on "the establishment of intermediate time-tables leading to the attainment of self-government by these territories."

The Indian delegate believed that the transmission of political information could not be forced and the Committee on Information did not have the competence to discuss this information. However, he further argued in favour of reading Article 73 as a unit and thus stated the desirability of submitting political information.<sup>67</sup>

The United States delegate opposed the draft resolution, since it attempted to impose a moral obligation to transmit political information. This delegate, however, agreed to continue the voluntary transmission of political information on territories under its administration.<sup>68</sup>

The representatives of Argentina and Uruguay proposed oral amendments to this resolution, which were accepted by the sponsors.<sup>69</sup>

The Iraqi amendment was accepted by the Fourth Committee by 44-7-20 votes.<sup>70</sup> The amended draft resolution was adopted by the Fourth Committee by 47-15-9 votes.<sup>71</sup>

The Assembly adopted this resolution on December 12, 1959, by 50-13-9 votes.<sup>72</sup>

Resolution 1468 (XIV), titled "Voluntary Transmission of Information on Political Developments in Non-Self-Governing Territories," recalled that under Article 73 certain obligations of a political character had been accepted. Since an "inextricable" relationship existed between political progress and progress in other fields, the observation of the Committee on Information that wide and effective participation by the local population in the political organs was a necessary concomitant of progress was

67. UNGAOR, Fourth Co. (14 Session), p. 55.

68. *Ibid.*, p. 615.

69. U. N. Document A/C. 4/L. 634.

70. The administering powers either abstained or voted against this amendment. The Soviet Union, other countries of the Soviet Bloc, India, Ceylon, Pakistan, the Philippines, Thailand, some other Asian and African countries, some Latin American countries and Arab countries voted in favour. UNGAOR, Fourth Co. (14th Session), p. 619.

71. All the administering powers, the Union of South Africa, Portugal, Italy, Canada and a few others cast negative votes. Turkey, Austria, Norway, Greece and some Latin American countries abstained. The Soviet Union, other countries of the Soviet Bloc, India, Pakistan, Japan, China, some other Afro-Asian countries and Arab countries voted in favour.

correct. Thus the administering powers were requested to encourage effective participation by the local inhabitants in the political life of the territory. The resolution considered the transmission of political information as essential for the understanding of the progress achieved in other fields. Thus voluntary transmission of political information was stated to be in conformity with the Charter. This resolution further requested that the information transmitted by the administering members should include the establishment of intermediate time-tables leading to the attainment of self-government.

Thus the arguments offered by some United Nations members that Article 73 should be considered as a unit, and that social, educational and economic matters were closely related to the political life of a territory were accepted by the Assembly. Furthermore, the adoption of this resolution amounted to an acceptance of the principle that the attainment of self-government by the non-self-governing territories could be expedited by the transmission of political information.

A draft resolution was submitted by the representative of Guinea which proposed the submission of time-tables by the administering members regarding the attainment of independence by their non-self-governing territories. He proposed that this resolution should be considered by the Assembly at its 1960 session. The Assembly was further requested to consult the representatives of these territories on the matter before considering it. The Secretary General was asked to submit a report on this matter at the Assembly's fifteenth session.<sup>73</sup>

The representatives of Ethiopia, India, Iran, Mexico and Venezuela regarded the adoption of the proposed resolution as unnecessary, since resolution 1468 (XIV) had the same purpose, namely the "speedy liberation of dependent territories," and hoped that this proposal would not be put to a vote.<sup>74</sup> Finally the draft resolution was withdrawn by Guinea on the request of India and some other members.<sup>75</sup>

An analysis of the discussions on the transmission of political information and the subsequent decisions of the Fourth Committee

73. U. N. Document A/C. 4/L. 628.

74. UNGAOR, Fourth Co. (14th Session), p. 624.

75. *Ibid.*, p. 625.

and the General Assembly regarding this question reveals that the majority of the United Nations members were in favour of voluntary transmission of political information. Thus the Assembly resolutions attempted to endorse this majority opinion. However, there were two extreme positions on this question. The group which attempted to make this information obligatory, was made up of the Soviet Union, Poland and some other countries. Belgium alone opposed the Assembly resolutions requesting voluntary transmission of political information. Yet all the other administering members, Canada, and the Union of South Africa partially supported this view. In their opinion, the members should be free to submit this information voluntarily but its reiteration by Assembly resolutions imposed moral obligation on the administering members.

However, the question of voluntary transmission of political information arose only when the majority of administering members voluntarily submitted political information on their non-self-governing territories. Thus, these members themselves had interpreted Article 73e in broader terms than was intended by the Charter provisions. The discussions and decisions of the Assembly did not succeed in giving this provision any broader meaning than was given to it by the majority of administering members. The transmission of political information could not be made compulsory. The voluntary transmission of political information by the majority of administering powers, however, gave the Committee on Information the power to receive this information. The resolutions further attempted to grant this Committee the power to examine the governmental structure and the degree of participation by its inhabitants in local administrative bodies on the basis of political information voluntarily transmitted by the administering powers. This constituted an attempt to narrow the difference between the non-self-governing territories and the Trusteeship Territories, since the Charter specifically mentions the transmission of political information on Trusteeship Territories by the administering members, but no such mention is made regarding the non-self-governing territories. The Committee on Information which was created as a body which could receive only economic, social and educational information transmitted by the administering powers could also receive political information when voluntarily transmitted by the administering powers.

## CHAPTER V

### Competence of the Committee on Information

The functions and powers of the Committee on Information were in a fluid state since there was no provision for this Committee in the United Nations Charter. Its terms of reference were the product of a General Assembly resolution ; subsequent Assembly resolutions have tried to modify and expand the provisions of the resolution which provided for the creation of the Committee.

There were various points of view regarding the competence of the Committee among the United Nations members. These differences of opinion still persist ; however, the divergent opinions have given rise to many significant questions, with great political implications. Problems related to the competence of the Committee on Information roused extremely heated debates in the Fourth Committee and the General Assembly.

This Chapter deals with various phases or aspects of this Committee's competence. In 1946 the Committee was given the power to receive the information submitted to the Secretary General by the administering members as required under Article 73e. In 1947 by resolution 146 (II) the Committee was granted limited powers of making substantive recommendations. This Assembly resolution affirmed the Committee's power to receive and examine the Secretary General's analysis of the information submitted under Article 73e and submit reports to the Assembly on this information. In addition to this, the Committee was granted the power to make substantive recommendations related to economic, social and educational matters; however, these recommendations could not be made regarding a particular non-self-governing territory. Thus, this resolution added to the powers granted to the Committee at the outset by Assembly resolution 66 (I) of 1946.

The meaning of "procedural" and "substantive" functions has been debated, and various interpretations have been made by the United Nations members regarding the use of these terms. Though no strict definitions of these terms can be given, for the purpose of

this study the term "procedural" would be used as the power to receive the information, and "substantive" as the power to make recommendations after considering the information supplied by the administering powers.

As has been mentioned in Chapters I and II elaborate machinery had been provided by the Charter for the Trusteeship Territories, while no machinery was provided for the non-self-governing territories. The Trusteeship Council was empowered to accept petitions and send visiting missions to the Trust Territories. However, these petitions were to be considered in consultation with the administering authority. The visiting missions were also sent only after the administering powers agreed to them. Besides these, the Trusteeship Council was given the authority to prepare a questionnaire for the guidance of administering members. The administering members were required to adhere to this questionnaire when submitting reports on their Trust Territories. The Committee on Information was created as an implementing body, and it was endowed with procedural and limited substantive functions; however, it did not have the power to hear petitions, send visiting missions or prepare questionnaires for the guidance of administering members. This Chapter is an attempt to determine whether the Assembly decisions succeeded in giving the Committee on Information the same functions and powers as were provided by the Charter for the Trusteeship Council.

The administering members responsible for the non-self-governing territories were required to transmit information regarding their non-self-governing territories. Since there was no detailed outline for the guidance of these members, it created certain problems.

### **The Standard Form**

In 1946, it became apparent that if the Secretary General was to make comprehensible summaries and analyses of the information transmitted by the administering members, these should conform to an agreed form, since the information transmitted varied not only between territories of different members, but also between territories under the same administration.

Thus the representative of the United States suggested the adoption of an outline which would serve as a guide in preparing information for transmission.

This outline was discussed in the *Ad Hoc* Committee in late 1947. As a result of this discussion it was decided that a general guide of this kind was desirable.<sup>1</sup> However, the Committee agreed that the transmission of political information should be optional and that such information should be summarized but not analyzed by the Secretary General. The outline suggested by the United States delegate proposed the placing of questions regarding political and administrative subjects under an optional category in this form. The United States delegate further insisted that the word outline should be used for this form rather than questionnaire since questionnaires were used as a means of exercising international supervision over Trust Territories. The Committee adopted this outline with a few amendments. This was the "Standard Form for the Guidance of Members in the Preparation of Information to be Transmitted under Article 73e of the Charter," referred to as the "Standard Form."<sup>2</sup>

In another draft resolution the *Ad Hoc* Committee requested that the Assembly should ask the administering members to submit as complete and up-to-date information on their territories as possible.

While the Standard Form was being considered by the Fourth Committee the representative of India proposed an amendment which recommended that the Standard Form should request the transmission of information on the degree of participation of indigenous and non-indigenous inhabitants in the administrative and judicial services, and in the legislative and advisory bodies of these territories.<sup>3</sup>

Another Indian amendment proposed that the form should state that whenever possible information should be prepared in such a manner as to show the way in which different elements of the population were affected, and if the laws and the administrative practices exercised "discrimination based on race, colour, or religion." The first amendment was adopted by a vote of 16-6-0. The second was adopted by 32-0-0 votes.

A draft resolution proposed by Cuba was amended on the basis of amendments offered by the United Kingdom and the United States. It recommended that the information transmitted by the members should be complete and up to date. It requested the:

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1. U.N. Document A/385.

2. *Ibid.*, pp. 20-28.

3. *Ibid.*, A/C. 4/109.

Secretary General to follow as far as possible, the proposed outline contained in the annex to this resolution while preparing his analysis. It requested that the Secretary General's analysis should include summaries of information transmitted on the participation of indigenous inhabitants in the local organs of government.<sup>4</sup>

The Standard Form together with the draft resolution was adopted by the Fourth Committee by 41 votes without opposition. The Assembly unanimously adopted resolution 142 (II). This resolution recommended the transmission of complete and up-to-date information to facilitate the completion of the Secretary General's summaries and analyses of the information. It specially requested that the reports should cover the items stated in sections II, III and IV of the Standard Form. It stated that the Secretary General should follow the Standard Form annexed to this resolution as closely as possible while submitting his annual summary. He should include summaries of information transmitted on the participation by local populations in the local organs of government.

The Standard Form annexed to resolution 142 (II) was divided into four parts. The first main heading was General Information. It constituted the optional category of information. This had A, B, C, D, E sub-sections. Sub-section "D" was titled "Government." It enumerated :

1. Status of territory
2. Constitution, legislative act, or executive order, providing for government
3. Nationality status of inhabitants
4. Relation of territories to the government of the metropolitan country
5. Brief statement of structure and powers of territorial government including reference to participation of local inhabitants
  - (a) Basic structure of government, including local government, and organization of principal government departments
  - (b) Composition and role of legislative and advisory bodies
  - (c) Judiciary

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4. *Ibid.*, A/424.



- (d) The elective system
- (e) Extent of participation of indigenous and non-indigenous inhabitants
- (f) Any significant recent events or developments with respect to the above matters
- (g) Human rights

The second, third and fourth main headings related to social, educational and economic conditions respectively.

The adoption of the Standard Form by the Assembly was significant. Until 1947 the members were free to decide the categories of information required to be transmitted under Article 73e. The administering members were to use their discretion in establishing the procedures for this transmission. The Standard Form, however, attempted to subject the information supplied by the administering powers to the Secretariat's supervision. The Secretary General was authorized to decide whether or not they adhered to the form which was provided for their guidance.

The administering powers were criticized for transmitting incomplete information. To this the United Kingdom replied that besides submitting information required under Article 73e they published supplemental information regarding the territories under their administration and these were available to the United Nations.<sup>5</sup>

In late 1947 a draft resolution introduced by the representative of India in the *Ad Hoc* Committee proposed that since the use of official documents supplementing the information transmitted by the administering powers would be useful to the Secretary General in carrying out the task entrusted to him, the Secretary General should be authorized with the prior approval of the administering power concerned to use its publications regarding non-self governing territories under its administration. However, the use of this information should be limited to the subjects mentioned in Article 73e.<sup>6</sup>

This resolution was drafted by the *Ad Hoc* Committee. The latter adopted in a slightly amended form by a vote of 22-18-0.<sup>7</sup>

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5. UNGAOR, Plenary Meetings (2nd Session), P. 727.

6. U.N. Document A/385.

7. *Ibid.*, A/424.

The resolution was adopted by the Assembly in a slightly amended form<sup>8</sup> on November 3, 1947, by 44 votes without opposition.<sup>9</sup>

Resolution 143 (II) recommended that it was essential for the Secretary General to study the official publications of the administering members in addition to the information transmitted by them, since this would help him in preparing better summaries and analyses.

It authorized the use of only such publications as had been brought to his notice by the administering members. Moreover, the Secretary General was required to give adequate citation of sources used. Other publications of inter-governmental and scientific bodies relating to non-self-governing territories could be used subject to some limitations.

This resolution extended the Secretary General's power regarding non-self-governing territories more than was granted to him by the Assembly resolution of 1946. It, however, indirectly attempted to enhance the competence of the Committee on Information since the Committee was granted the power of examining the Secretary General's summaries and analyses and could make recommendations to the Assembly on any subject dealt with in the summaries. There was talk of revising the Standard Form.

Assembly resolution 221 (III) adopted on November 3, 1948, requested the Specialized Agencies to examine the sections of the Standard Form with which they were specially concerned. As a result of this, certain recommendations were made by the Specialized Agencies which would have necessitated a revision of the Standard Form. However, the United Kingdom and United States delegates requested in the Special Committee that revisions should not be made in 1949, because this would create confusion in adopting them as the previous recommendations had just started to be put into practice. It was decided to leave the question of revision undecided until 1950.

In 1950 the question of revising the Standard Form was discussed. These discussions were based on a report prepared by the Secretariat in consultation with the Specialized Agencies. It also contained details of the suggestions made on this subject earlier. However, due to pressure of work no decisions could be taken on this question and it was postponed until 1951.

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8. *Ibid.*, A/436.

9. UNGAOR, Plenary Meetings (2nd Session), p. 719.

While this question was being debated in the Committee the representative of the United Kingdom argued that the Standard Form should not be made over-elaborate, since this would create difficulties for the colonial secretariats, as they would be asked to prepare detailed information on a number of subjects within a limited time prescribed by the Assembly.<sup>10</sup>

The representative of India agreed with this point of view but believed that in order to judge the policy followed by the administering members it was necessary for the Committee to have adequate information. He, however, agreed with the British delegate that the administering members were not obliged to adhere to the Standard Form.<sup>11</sup>

The United States delegate introduced a draft resolution which proposed the creation of a sub-committee to meet in 1951 and prepare a revised text for the Special Committee's consideration.<sup>12</sup>

An amendment proposed by the representative of Australia recommended that the Standard Form should be revised in time to guide the administering members in preparing information to be transmitted in 1952 and subsequent years. This was unanimously adopted.<sup>13</sup>

Thus the United States draft resolution was adopted in its amended form. It recommended that the Sub-Committee should have six members : Brazil, France, India, the Philippines, the United Kingdom, and the United States. The resolution further requested that the Secretary General should prepare a working paper to be used by the Sub-Committee in 1951.<sup>14</sup>

In 1950 various views were expressed by the United Nations members regarding the Standard Form.

The representative of India held in the Committee on Information that the distinction drawn between the optional and other part of the Standard Form was illogical and arbitrary. He felt that since detailed documentation was needed to acquire complete under-

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10. UNGAOR, Supplement No. 17 (5th Session), ¶ 9. Also U.N. Document A/1303/Rev. 1.

11. *Ibid.*, p. 9.

12. U.N. Document A/AC. 35/L. 23.

13. UNGAOR, Supplement No. 17 (5th Session), p.9.

14. *Ibid.*, p. 10.

standing of the conditions prevailing in the non-self-governing territories, the existing distinction should be removed.<sup>15</sup>

• The Sub-Committee appointed for the purpose of revising the Standard Form submitted a revised text in its report.<sup>16</sup> This was discussed by the Special Committee in 1951.

While the suggested revision was under discussion the representatives of Australia, Belgium and France made reservations regarding the transmission of information not related to statistical and other technical information on economic, social and educational conditions.<sup>17</sup>

The representative of the Netherlands felt that since conditions differed in various non-self-governing territories, it followed that the categories mentioned in the Standard Form were not applicable to every territory.<sup>18</sup>

The representatives of Australia, Belgium and others agreed to accept the Standard Form as a guide but objected to transmitting information on all the categories listed in this form.<sup>19</sup>

According to the Soviet delegate, the revised Standard Form was unsatisfactory since the administering powers could arbitrarily decide what information they were willing to transmit.<sup>20</sup>

The revised Standard Form was adopted in a slightly amended form by the Special Committee. It was considered by the Fourth Committee in November, 1951.

The representatives of Burma and India expressed hope in the Fourth Committee that the administering members would supply information in both the optional and the obligatory categories.

A draft resolution proposed by India, the Philippines, the United Kingdom and the United States A/AC. 35/L. 68, proposed that the Assembly should request the administering members to supply complete and full information for this purpose and ask them to take into account the sections of the revised Standard Form.

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15. *Ibid.*, p. 10.

16. U.N. Document A/AC. 35/L. 67.

17. UNGAOR, Supplement No. 14. (6th Session). Also U.N. Document A/1836. p. 3

18. *Ibid.*

19. *Ibid.*, p. 3.

20. *Ibid.*, p. 3.

The draft resolution and the revised Standard Form were adopted by the Fourth Committee by 38-0-7 votes.<sup>21</sup> These were adopted by the Assembly on December 7, 1951, by 46-0-5 votes.<sup>22</sup> Thus resolution 551 (VI) requested that information on long term government policies and administrative organizations should be transmitted every three years, but if information on basic government policies had been transmitted reference to such information should be specified every year, even if no change had taken place.

It requested information on the participation of indigenous and non-indigenous inhabitants and on laws and administrative practices which discriminated on the basis of race or religion.

This Standard Form was very similar to the previous Standard Form. The only difference was that the information on human rights was listed under "Social Conditions" which constituted Part III of this Standard Form and was in the obligatory category of information required to be transmitted. This form, like the previous one, listed government in the optional category.

The Standard Form was initially prepared for the guidance of administering members in an effort to obtain more uniform reports. It provided an outline of the different kinds of information expected from them on their non-self-governing territories. However, the administering members were not obliged to adhere to this outline. It was prepared for the guidance of members like the Questionnaire which the Trusteeship Council prepared for the guidance of members administering Trust Territories. But the two differed, firstly because political information was listed under the optional category in the Standard Form, while its submission was obligatory under the Questionnaire. In addition to this, the members administering Trust Territories were required to adhere closely to the outline furnished by the Questionnaire.

The Standard Form still listed political information in the optional category and the demand of the representative of India and others to merge the two categories of information and put them under the obligatory category was not accepted. Thus the attempts to convert the Standard Form into the Questionnaire provided for

21. UNGACR, Fourth Co. (6th Session), p. 80.

22. UNGAOR, Plenary Meetings (6th Session), p. 229.

the Trust Territories failed. The two outlines had quite similar functions, but the nature of the obligations ensuing from them differed.

In advocating that the distinction between the optional and obligatory category of information should be removed the Indian delegate was supporting the theory that Article 73 was a unit. He believed that in order to understand fully the condition of non-self-governing territories, political information was necessary along with economic, social and educational information. However, his position showed a slight shift from his previous position on the question of the transmission of political information. At the first session of the Assembly, the Indian delegate had admitted that the administering members were not obliged to transmit political information, but its transmission by them was desirable. His argument against the artificial separation of political information from other kinds of information required by the Standard Form might have been prompted by India's desire to align closely with the other newly independent countries which tried to prove that political information was required under Article 73e. Whatever the reasons, India's position on the revised Standard Form was more close to the extreme position taken by Poland and the Soviet Union than those of the moderates like Australia, Denmark, New Zealand, United States and a few others.

As shown in this analysis of the General Assembly decisions, though the members in favour of totally bridging the difference between the Questionnaire and the Standard Form failed in their attempt, they succeeded in making the Special Committee create the Sub-Committee to consider the question of revising the Standard Form. The special Committee was authorized to discuss the recommendations of the Sub-Committee and approve the Standard Form. This resulted in the consideration by the Special Committee of the political information contained in the optional category of information. Thus India and a few other members partially succeeded in their attempts to increase the competence of the Committee, and to bring the question of political information to the forefront of the United Nations' organs.

The United Nations members recognized the necessity of adapting the Standard Form to the changing circumstances. Consequently, the representative of India introduced a draft resolution at

the 1955 session of the Assembly. This proposed that the Standard Form should be amended to provide for the transmission of information on various aspects of community development. This was adopted by the Fourth Committee in a slightly amended form by a vote of 47-0-5, and in the Assembly by 53-0-5 votes.<sup>23</sup> Resolution 930 (X) adopted by the Assembly on November 8, 1955, requested the transmission of complete and up-to-date information on community development by the administering members. The Standard Form annexed to draft resolution 551 (VI) was modified by the addition of a supplement in the form of an annex.

Thus the periodic changes introduced in the Standard Form reveal the desire of the Assembly to adapt them to the prevailing circumstances. The Assembly intended to prepare a definite plan of the details expected from the administering members in their reports. These members were still free to decide the form of transmitting information on their territories. But a desirable procedure was recommended by the Assembly and these powers were requested to adhere to this form. This certainly was an attempt to increase the surveillance of the Assembly and consequently of the Committee on Information over non-self-governing territories.

### **Regional Recommendations**

The Assembly and the Committee on Information had the competence to receive information regarding the economic, social and educational conditions of non-self-governing territories. The Assembly resolutions had attempted to increase this competence by granting these bodies the power to receive political information if voluntarily transmitted. The Committee on Information was granted the power to make substantive recommendations relating to social, economic and educational matters, but it could make such recommendations about non-self-governing territories in general and not regarding any particular territory. Some United Nations members felt that there were different and unique problems related to various regions and, therefore, the Assembly and the Committee on Information should be able to make recommendations regarding particular regions. Thus this question came up for consideration in the Fourth Committee in 1954.

The report on the economic conditions which was approved

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23. UNGAOR, Plenary Meetings (10th Session), p. 1292.

by the Committee on Information was accepted by the United Kingdom in 1954 as a general expression of opinion by this Committee. The British delegate said in the Fourth Committee that the report would be forwarded to the governments of the non-self-governing territories administered by the United Kingdom for consideration.<sup>24</sup>

The representative of Australia, however, was not satisfied with this report. He held that the report was obscure and over-simple. Moreover, he felt that it was not entirely applicable to particular circumstances of each territory.<sup>25</sup>

The Danish delegate, however, was of the opinion that the Committee, in order to avoid detailed recommendations on conditions in particular territories, had avoided generalizations of merely theoretical value. He noted that the special reports gave emphasis to Africa and expressed doubt about their utility to the numerous island colonies in the Pacific and the West Indies.<sup>26</sup>

The representative of Syria suggested that there seemed to be a necessity for changing the method by which the information was studied by the Committee, so that the United Nations could make constructive and precise recommendations to the administering members regarding the varied problems which faced them in their non-self-governing territories.<sup>27</sup>

Consequently the delegations of Pakistan, Saudi Arabia, Syria and Thailand submitted a draft resolution<sup>28</sup> which recognized that the diverse conditions prevailing in different non-self-governing territories might present special problems. Therefore these problems should provide an opportunity for the Assembly to express views and make recommendations which would be of "concrete value" to the separate territories or regions. It asked that the Committee on Information should at its 1955 session examine the way in which future reports prepared for the Assembly "might most appropriately be directed to the consideration of information or recommendations concerning particular regions or groups of territories."

24. UNGAOR, Fourth Co. (9th Session), p. 92.

25. *Ibid.*, p. 105.

26. *Ibid.*, p. 112.

27. *Ibid.*, p. 174.

28. U. N. Document A/C. 4/L. 346.



The United States delegate opposed this draft proposal since he thought it represented an attempt to broaden the scope of the Committee's competence. Moreover, he believed that since, the question of renewing the Committee would be discussed in 1955, the proposal seemed to be premature. According to him, the wording of this draft resolution prejudged the issue by requesting the Committee to study the "manner in which, rather than whether, reports should be prepared on a different basis." In his opinion the proposals constituted a step towards the discussion of individual territories and not towards a regional approach. He felt that the consideration of regions was not important since territories and states of a particular region had similar problems to solve.<sup>29</sup>

The United Kingdom delegate protested against the adoption of this proposed draft resolution and also threatened to withdraw from participating in the Committee if the resolution were passed. He regarded the proposal as attempt to widen the Committee's terms of reference.<sup>30</sup>

The representatives of Ecuador, Israel, Saudi Arabia, Syria, Thailand and Yugoslavia disagreed with this point of view and argued that the adoption of this resolution would not change the Committee's terms of reference. They further argued that even if it broadened the scope of the Committee's competence, the Fourth Committee was entitled to do so, since the Committee on Information had been created by the Assembly.<sup>31</sup>

A few changes were made in the wording of this draft resolution; the sponsors agreed to replace the words "concerning the particular problems common to certain regional groups of territories." The draft resolution was adopted by the Fourth Committee by 37-7-3 votes.

France and Belgium did not participate in the voting and reserved their governments' position in case the resolution was adopted by the Assembly.

The Assembly considered the resolution at its 498th plenary meeting. No new arguments were offered at this time. Both the

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29. UNGAOR, Fourth Co. (9th Session), p. 179.

30. *Ibid.*, p. 178.

31. *Ibid.*, p. 178.

32. *Ibid.*, p. 179.

representatives of France and Belgium refused to take part in the voting.<sup>33</sup> The draft resolution was adopted by the Assembly by 42-9-3 votes.<sup>34</sup> Resolution 847 (XI) recommended that since conditions in various regions presented special problems the Assembly should make recommendations to certain regional groups of territories. It requested the Committee on Information to study in 1955 the manner in which future reports could be utilized to consider information and recommendations concerning the particular problems common to certain regional groups of territories. The Committee was asked to study and suggest if any amendments were necessary to be made in the Standard Form, which might help the administering members to provide information on the particular problems common to certain regional groups of territories.

In 1955 the draft resolution regarding the renewal of the Committee on Information<sup>35</sup> included a paragraph which proposed that the Assembly would ask the Committee to make recommendations on problems common to territories in a regional group. This however, was omitted from the final resolution providing for the renewal of the Committee.

This resolution attempted to increase the competence of the Committee on Information by granting it the right to focus its attention on particular groups of territories rather than non-self-governing territories in general. However, the administering members were still free to prepare the reports regarding their non-self-governing territories in the manner they desired. Moreover, it was up to them to emphasize their particular problems or to overlook them, thus in reality this competence of the Committee depended to a great extent on the co-operation of the administering members. The Committee on Information was given the power to make recommendations regarding particular regions but it was not granted the power to make recommendations in relation to particular territories.

However, the resolution certainly attempted to increase the competence of the Committee on Information and extend it beyond its original terms of reference. It was created as an implementing body and received only economic, social and educational information. Slowly its competence increased, and besides the power to receive

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33. UNGAOR, Plenary Meetings (9th Session), pp. 290-91.

34. *Ibid.*, p. 291.

35. U.N. Document A/AC. 35/L. 209.

political information, it was granted the power to consider it if necessary. The resolution related to regional recommendations further attempted to add to its growing competence by granting it the power to make recommendations about particular regions.

### **The Right to Send Visiting Missions**

The United Nations could not send its visiting missions to non-self-governing territories, though it was empowered to do so with regard to the Trusteeship Territories. The Soviet Union and some other members regarded it necessary that the United Nations should have the power of sending visiting missions to non-self-governing territories. Though the Soviet Union did not present any concrete proposals on this issue, it proposed in the *Ad Hoc* Committee in 1947 that the United Nations should be empowered to make on-the-spot investigation of living conditions in the non-self-governing territories. This proposal was rejected by the Committee.<sup>36</sup>

Until 1950 this issue of sending visiting missions to non-self-governing territories did not receive any attention. In 1950, United Nations officers visited one non-self-governing territory on the invitation of the administering member. The government of Denmark had invited these officials to visit Greenland. Two Secretariat officials visited it from June 15 to July 8, 1950.

This act of the Danish Government was appreciated by the Egyptian delegate, and he expressed in the Committee on Information the hope that the other governments would follow this example.<sup>37</sup>

In November 1950, the representatives of Cuba, the Dominican Republic, Lebanon and Pakistan expressed their hope in the Fourth Committee that the Danish example would be followed by other members.<sup>38</sup>

The representative of Cuba submitted a draft resolution to this effect in the Fourth Committee. This resolution proposed that the information submitted by the administering members might be supplemented by visits made to the non-self-governing territories

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36. U. N. Document A/385. Also UNGAOR, Fourth Co. (2nd Session), p. 205.

37. UNGAOR, Supplement No. 17 (5th Session). Also U. N. Document A/1303/Rev. 1.

38. UNGAOR, Fourth Co. (5th Session), p. 259.

at the invitation of the administering members. It requested that the reports of these visits should be made available to the Assembly and asked that the report on the visit to Greenland should be published.<sup>39</sup>

The Danish delegate opposed the Cuban draft since he believed that he could not allow his government's invitation to be used as the basis of a resolution. According to him, this resolution indirectly invited other administering members to issue such invitations. This delegate believed that the invitations should be free and spontaneous and no pressure should be put on the administering members.<sup>40</sup> He further argued that since such invitations were issued for the purpose of encouraging contact and the exchange of views between the United Nations officials and those of these territories, the reports of these visits could not be included in the same category as the information transmitted by the administering powers.<sup>41</sup>

Thus this delegate emphasized the difference between visiting missions sent by the United Nations and certain goodwill missions invited by the administering powers, and pressed for the preservation of this difference.

The Yugoslav delegate argued in the Fourth Committee that Assembly resolution 850 (IX) had requested the Committee on Information to consider the question of sending visiting missions to non-self-governing territories for the purpose of ascertaining the opinions of its inhabitants regarding the forthcoming change of status of the various territories since this was a question which had most often led to varying interpretations.<sup>42</sup>

There was not sufficient time to discuss the Cuban draft. It was withdrawn and the representative of Cuba reserved his right to introduce the question at a later session. Thus the right to send visiting missions to the non-self-governing territories was postponed indefinitely.

However, the acceptance of resolution 850 (IX) by the Assembly amounted to its acceptance of the concept of visiting missions. This,

39. U. N. Document A/C. 4/L. 113/Rev. 1.

40. *Ibid.*, A/C. 4/L. 127. Also UNGAOR, Fourth Co. (5th Session), pp. 311-312.

41. *Ibid.*, p. 312

42. *Ibid.*, (10th Session), p. 19.

however, was subject to the approval of the administering powers, no United Nations delegation could be sent to non-self-governing territories under resolution 850 (IX)<sup>43</sup> unless the administering power concerned agreed.

In spite of this qualification, the fact that the concept of visiting missions found recognition by the Assembly is significant since this was an attempt to further narrow the distinction between the two separate systems provided for the non-self-governing territories and the Trusteeship Territories. The Soviet Union was eager to introduce the same amount of international supervision over non-self-governing territories as was provided for the Trust Territories. Thus, most of the Soviet proposals regarding non-self-governing territories were an attempt to merge totally the two different systems provided by the Charter for the non-self-governing territories and the Trusteeship Territories respectively. The Soviet Union presented a proposal which recommended the establishment of the right to hear petitions from non-self-governing territories.

### **The Right to Hear Petitions From Non-Self-Governing Territories**

As early as 1947 the Soviet Union's proposal for establishing the United Nations' right to hear petitions from local populations was defeated in the Committee on Information by 10-4-1 votes.<sup>44</sup>

After six years the question of hearing petitions from local populations again arose at the time of the cessation of information on Puerto Rico by the United States. Some Puerto Rican political parties wished to present their point of view before the Fourth Committee, on the question of cessation of information on Puerto Rico. This was opposed by several members. The representative of France believed that this would cause inseparable harm to all the United Nations members.<sup>45</sup>

The British delegate agreed with this point of view and argued that since Article 73e mentioned no such right it could not be granted.<sup>46</sup> The representative of New Zealand fully supported this

43. UNGA Resolution 850 (IX) discussed in Chapter VII.

44. U. N. Document A/385, Also UNGAOR, Fourth Co. (2nd Session), p. 205.

45. UNGAOR, Fourth Co. (8th Session), p. 30.

46. *Ibid.*, p. 32.

view and held that the Charter did not authorize the Fourth Committee to accept any petitions other than those concerning Trust Territories and, therefore, his government could not agree to amend the Charter by Assembly resolutions.<sup>47</sup>

Besides these representatives, the delegates of Dominican Republic, Cuba, Ecuador, Venezuela and Greece also argued against introducing the right of petition by the non-self-governing territories. They argued in favour of preserving the distinction between the two separate systems provided under Chapter XI and Chapters XII and XIII. According to these representatives, since the right to a hearing before the Committee was the "direct outcome of the right of petition granted to the Trust Territories in Article 87b, this distinction should be preserved."<sup>48</sup>

India, Iraq, Saudi Arabia, Yugoslavia, Argentina, Guatemala and Mexico argued in favour of granting an oral hearing and thus requested that the Puerto Rican Independence Party should be invited to present its position. The representative of Iraq argued in the Fourth Committee that though the right of petition was specifically mentioned in the Charter in connection with Trust Territories, he felt that "the relevant provisions of the Charter did not exclude other territories."<sup>49</sup> However, India, Saudi Arabia, and Guatemala recommended the granting of a hearing to the Puerto Rican Independence Party and did not present any arguments in favour of the United Nations right of hearing petitions from non-self-governing territories in general. But Mexico supported the "broadest interpretation of the right of petition and oral hearing..."<sup>50</sup>

In conclusion it can be said that the majority of members were agreed that the right of petition was not recognized by the Charter for non-self-governing territories.

Another issue which came up before the Fourth Committee five years later in 1959 has some bearing on this issue. The representatives of Ghana, Guinea, Iraq and Liberia insisted that all the communications received from the inhabitants of non-self-governing territories should be circulated. The representative of Ghana, in

47. *Ibid.*, p. 33.

48. *Ibid.*, pp. 30, 31, 32, 35.

49. *Ibid.*, pp. 29, 30, 31, 32.

50. *Ibid.*, p. 34.

51. *Ibid.*, (14th Session), p. 514.

addition to inquiring whether communications had been received from certain African Territories, requested that the Secretariat should supply the Committee with a list of the nature and origin of these communications.<sup>51</sup> The representatives of Guinea, Iraq and Liberia supported this request.

Thus these representatives desired to establish direct contact with the inhabitants of non-self-governing territories. The purpose of these proposals was to obtain the reactions of the native inhabitants regarding administrative and other conditions prevailing in the non-self-governing territories. Thus it amounted to some extent to a request for granting the right of sending written information and petition to the United Nations. This, however, could not be established. The United Nations members were not prepared to accept these modifications in Chapter XI of the Charter.

A survey of the discussions regarding the establishment of the right to send visiting missions to non-self-governing territories, and the Assembly's right to hear petitions from non-self-governing territories and the power of the Committee on Information and the Assembly to prepare a Standard Form for the guidance of administering members, reveals a desire on the part of some members to create a replica of the Trusteeship Council. However, an analysis of the Assembly decisions shows the failure of the attempts to give the Committee on Information the right to hear petitions. The concept of sending visiting missions found partial recognition, but the actual right to send visiting missions was not granted either to the Committee on Information or the Assembly. The Committee and the Assembly obtained the right to prepare an outline for the guidance of administering members. However, the administering members were not obliged to follow this outline; moreover, it differed from the Questionnaire which was provided for the members administering Trust Territories, since political information was listed under the optional category of information.

Thus, though the Assembly decisions attempted to increase the competence of the Committee, they could not be said to have created another Trusteeship Council. As a result of these decisions the powers and functions of the Committee on Information were further defined and elaborated. The Committee was no longer a purely procedural organ, it had substantive functions pertaining to administrative policy and political matters. However, it could

exercise these functions only with the co-operation of the administering powers. The Committee was partially authorized to make regional recommendations but even this could be possible, if the administering powers co-operated. Thus, the Committee on Information assumed some characteristics of the Trusteeship Council. This, however, was the product of the increasing co-operation between the administering powers and the other United Nations members. The present Chapter definitely shows a blurring of the distinction between the two groups of powers categorized as liberal and conservative. The proposal for preparing a Standard Form came from an administering member, namely, the United States. The possibility of sending visiting missions came up as a result of the Danish invitation to the United Nations' officials to visit Greenland. Thus the co-operative efforts of the majority belonging to the two groups of powers succeeded in increasing the competence of the Committee and further elaborating the provisions of Article 73c and bringing it closer to the system established for the Trust Territories.



CHAPTER VI  
**The United Nations' Attempt  
To Define Non-Self-Governing Territories  
1946—1959**

Chapter XI of the United Nations Charter contains no definition of non-self-governing territories. These territories are mentioned as "Territories whose peoples have not yet attained a full measure of self-government." The term "self-government"<sup>1</sup> was vague and no definition of the term had been given in the United Nation Charter. Moreover, no mechanism was provided for the purpose of defining this term. The Charter was silent as to whether the achievement of economic, social and educational independence by a non-self-governing territory qualified it to be regarded as fully self-governing. Thus, besides the absence of a specific substantive basis according to which the decision regarding the political status of non-self-governing territories could be made, the absence of some authority or organ competent to make the decision regarding the political status of non-self-governing territories complicated this problem, and necessitated the subsequent attempts at defining non-self-governing territories.

There were two sides of this problem, the first was the problem of the absence of a list of non-self-governing territories on which information was required under Article 73c. The second was the problem of defining self-government and this had a bearing on the issue of cessation of the transmission of information on non-self-governing territories. Unless the non-self-governing territories became fully self-governing, the transmission of information could not cease. However, without a specific definition of "non-self-governing territories" it was not possible to determine whether or not the cessation of the transmission of information on certain non-self-governing territories was justified.

In spite of these two questions constituting the two sides of the same problem, for purposes of analysis the two questions would be treated in separate chapters. This chapter deals with the United

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1. United Nations Charter, Chapter XI, Article 73.

Nations' attempt to define non-self-governing territories. The following chapter will deal with the cessation of the transmission of information.

Due to the ambiguity surrounding the word "non-self-governing" it was necessary to give it a definite meaning. The United Nations made an attempt in this direction. The provisions of Chapter XI applied to territories categorized as non-self-governing and unless a clear and uniform definition of this term could be laid down, the provisions of this Chapter would have no meaning.

There have been three steps in this process. An initial list of non-self-governing territories was drawn up at the request of the Secretary General in June, 1946. This letter dated June 29, 1946, requested two things. Firstly, all the United Nations members were asked to enumerate the non-self-governing territories under their jurisdiction. Secondly, they were requested to give their opinion regarding the factors to be taken into account in determining which were the non-self-governing territories referred to in Chapter XI of the Charter. In reply to this letter eight members submitted a list of seventy-four territories regarding which they intended to transmit information.

The replies of the members regarding the factors to be taken into account in determining the non-self-governing territories differed greatly. There were three different points of view. One group of members suggested a definition or criterion for a definition of the term "non-self-governing territory." The other group of members believed that it would be difficult to arrive at a definition applicable in all circumstances. The third group of members, however, felt that the determination of the territories to which any definition could be applied in order to determine their status was within the exclusive competence of the power entrusted with the administration of the territories.

Therefore, at this part of the first session of the Assembly, Subcommittee 2 of the Fourth Committee discussed the question of defining the term "non-self-governing territory." Certain possibilities were suggested, but some members were totally opposed to any formal definition. For example, the representative of Cuba held that "attempts at a formal definition might tend to restrict the provisions of the Charter."<sup>2</sup>

The French representative supported this opinion and suggested the desirability of adhering strictly to the text of the Charter.<sup>3</sup>

The Sub-Committee agreed to note the list of territories submitted by the administering powers enumerating the territories to which Chapter XI applied, but not to attempt a definition of the term "non-self-governing territory" for the time being.<sup>4</sup>

The first attempt at defining the term "non-self-governing territory" was unsuccessful. However, a list of seventy-four territories to which the term "non-self-governing" could be applied was submitted and a subsequent Assembly resolution accepted this list. Since then there have been many changes in this list of territories, but no new territories have been added to the original list.

Australia, Belgium, Denmark, France, the Netherlands, New Zealand, the United Kingdom and the United States were the members which submitted the list of their non-self-governing territories.

In connection with the study of the factors to be taken into account in deciding whether or not a territory was non-self-governing, some governments had expressed their opinions on the possibility of defining the concept of a full measure of self-government for the purposes of Chapter XI. The General Assembly had merely enumerated the list of factors suggested by these governments and had refrained from any attempt to define "non-self-governing territories."

In 1947 information was withheld on certain non-self-governing territories. This resulted in the United Nations attempt to define "non-self-governing territories." This attempt constitutes the second step of the process of defining the term "non-self-governing territory." The United Nations General Assembly initiated a study of factors in an attempt to solve the ambiguity of the term non-self-governing. However, this attempt was considerably delayed. It was only in 1949 that the Committee on Information was authorized by Assembly resolution 334 (IV) to make a study of factors which should be taken into account in determining which territories could be regarded as non-self-governing.

This attempt to enumerate the factors which could be taken into account in deciding whether or not a territory was non-self-

3. *Ibid.*, p. 9.

4. *Ibid.*, p. 9.

governing was entrusted by the Assembly to four different subordinate organs. After being considered by the Committee on Information in 1951, the problem was studied by a sub-committee of the Fourth Committee in the same year. Then the Assembly entrusted this task to an *Ad Hoc* Committee in 1952. This was followed by another study which was made by a second *Ad Hoc* Committee constituted for this purpose in 1953. Apart from these the Assembly engaged in several discussions regarding the factors to be taken into account in determining the status of a territory.

Resolutions 567 (VI) and 648 (VII) were the result of the studies carried on by the subordinate organs set up by the Assembly. Ultimately, as a result of these studies and the consequent reports the Assembly adopted resolution 742 (VIII) in 1953 which laid down the factors in considerable detail. Thus the attempt made by the Assembly to define non-self-governing territories was done in a piecemeal fashion, and each subordinate organ attempted to improve the list of factors submitted by its predecessor. The final result was a list of factors which could be taken into account in determining whether or not a territory was self-governing.

The cessation of information on territories in 1947 and 1948 was followed by a note of the Secretary General dated January 21, 1949. It emphasized the provisions of resolution 222 (III) relating to the cessation of information,<sup>5</sup> and requested France, the United Kingdom and the United States to submit information on certain of their non-self-governing territories on which information had been withheld. The three governments replied to the note explaining their reasons for the cessation of information on the territories which were mentioned in this note. Subsequently these three communications were brought to the attention of the Special Committee in 1949.<sup>6</sup>

### **Discussion Relating to the Study of Factors in 1949**

The representative of Egypt proposed a draft resolution in the Fourth Committee regarding the territories to which Chapter XI of the Charter could be applied.<sup>7</sup> This draft resolution emphasized the responsibility of the Assembly to comment on the principles "which have guided or which may in future guide the members concerned in

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5. Assembly resolution 222 (III) discussed in Chapter VII of this book.

6. U. N. Document A/915 and Add. 1.

7. *Ibid.*, A/C. 4/L. 37.

enumerating the territories for which the obligation existed to transmit information under Article 73e of the Charter." It further requested "any special committee" appointed by the Assembly "to examine the factors which should be taken into account in deciding whether any territory is or is not a territory whose people have not yet attained a full measure of self-government." The representative of Thailand suggested a slight change in the wording of the resolution so that it meant that the General Assembly had the competence to comment on the principles which should guide the administering members in enumerating their non-self-governing territories. This was accepted by the Egyptian delegate.

Belgium, Canada, France and the United Kingdom argued against this resolution. These members were agreed that only the administering members had the competence to determine the status of their non-self-governing territories and opposed the resolution, since it recognized the Assembly's competence to determine whether or not a territory was non-self governing.<sup>8</sup>

The British delegate argued that there were certain security and constitutional limitations to the transmission of information required under Article 73e, and since only the administering member concerned was in a position to decide the question of security considerations, the Assembly could not be granted the power to make the final decision.

The French and Belgian representatives believed that a definition of self-government was necessary before a study of factors could be undertaken and thus the Egyptian draft resolution was useless. These two delegates further recommended in the Fourth Committee that the provisions of Chapter XI should be applied to all non-self-governing territories (and held that certain other reservations and territories had been left out of the list of non-self-governing territories.<sup>9</sup>) In other words these representatives demanded a universal application of the term non-self-governing and protested to its being applied only to the territories of those members which had complied with the United Nations request and voluntarily submitted information on their non-self-governing territories.<sup>10</sup>

The representative of Canada did not accept the competence of the Special Committee to study the factors, and thus opposed the

8. UNGAOR, Fourth Co. (4th Session), pp. 180, 181, 183, 186.

9. *Ibid.*, p. 183.

10. *Ibid.*, pp. 180, 181.

*United Nations' Attempt To Define Non-Self-Governing Territories* 101  
Egyptian draft resolution.<sup>11</sup>

The majority of the United Nations members supported the draft resolution. India and the Philippine representative held in the Fourth Committee that the obligation to transmit information existed until a territory had attained full self-government. Consequently, the Assembly was competent to ask the administering members to observe the obligation. The reduction of the number of territories listed in the original list could only be accepted with the consent of the Assembly. They further believed that the Assembly had the authority of determining the validity of the constitutional considerations invoked in support of the reservations mentioned by the United Kingdom delegate and other administering members. According to these two representatives, the constitutional provisions should comply with and not contradict the provisions of the Charter.<sup>12</sup>

The Egyptian draft resolution, as amended by Thailand, was adopted by the Fourth Committee by 30—10—7 votes.

Except Denmark and the United States which abstained, the rest of the administering powers voted against the resolution. Some Latin American countries, Arab countries, the Union of Soviet Socialist Republics, and the other countries of the Soviet bloc, Israel, Liberia, Pakistan, the Philippines, Thailand and others voted in favour.<sup>13</sup>

This draft was adopted by the Assembly without change, by a vote of 30—12—10. This was the Assembly resolution 334 (IV) passed on December 2, 1949. By this resolution the Assembly asked "any special committee" which it might appoint to examine the factors to be taken into account in order to determine whether or not a territory was non-self-governing.

It was decided by the Special Committee in 1950 that the consideration of factors should be put on the agenda of its next session. Since the problem was complex, and the Committee had a limited time for its consideration, the Secretariat had prepared the background data for the consideration of this question by the Committee at the 1950 session.<sup>14</sup>

11. *Ibid.*, p. 186.

12. *Ibid.*, pp. 182, 188.

13. *Ibid.*, p. 188.

14. U.N. Document A/AC. 35/L. 30 and Add. 1.

**The Problems Related to the Study of Factors in 1951**

Finally the Committee on Information discussed the question of factors during December, 1951.

It was agreed that the Committee was not competent to decide whether or not the inhabitants of a territory had attained complete self-government. The majority of members held that the Committee was not competent to give the final decision on the status of a territory, and agreed that it could, however, suggest a list of factors to be taken into account in determining the status of a non-self-governing territory. The representative of the Netherlands was completely opposed to the establishment of any criterion for determining whether or not a territory was self-governing.<sup>15</sup>

However, the Committee on Information submitted a report on factors to the General Assembly. The Fourth Committee discussed the report of the Committee on Information in 1951.

The Netherlands delegate held in the Fourth Committee that it was impossible to give a satisfactory definition of a self-governing or non-self governing territory.<sup>16</sup>

All the members were agreed on the desirability of having a substantive basis for decision, in other words they recognized the necessity of a list of factors which would be a useful guide in determining the status of a territory.

Disagreements arose over the question of the competent authority or organ which could make decisions regarding the status of non-self governing territories by applying these factors.

One group of powers including Belgium, France and the United States believed that the administering powers were the only competent authorities to make the decision regarding the status of a territory.<sup>17</sup> This point of view was opposed by Brazil, Cuba and Egypt. These members held that the Assembly was not only competent to lay down criteria for decision, but that the decision regarding the status of non-self-governing territories could not be taken without its prior consent.<sup>18</sup>

15. UNGAOR, Supplement No. 14 (6th Session), p. 41.

16. UNGAOR, Fourth Co. (6th Session), pp. 89, 274.

17. *Ibid.*, p. 98.

18. *Ibid.*, pp. 85, 92.

### **Study of Factors in 1951-1952**

While the report of the study on factors undertaken by the Committee on Information in 1951 was under discussion in the Fourth Committee, a number of members regarded it as incomplete. The general feeling among the members was that the Committee on Information had tried to avoid expressing any opinion on disputed points. Thus they felt that in its effort to steer clear of controversial points it had refrained from making a comprehensive study of factors. These powers further held that the study dealt with some aspects of the problem of factors but had not considered it fully. Moreover, according to them, it had been unable to arrive at a definition of self-government or to name an authority or organ competent to apply the test of factors to non-self-governing territories.<sup>19</sup> The Czechoslovakian representative felt that: "The Special Committee had attached greater importance to agreement among its members than to a solution of the problem of who was to decide whether a territory was self-governing or not....." According to this representative, the Special Committee had not carried out the task entrusted to it by the Assembly.<sup>20</sup>

The majority of members, however, disagreed with the Czechoslovakian representative. According to the United Kingdom, Denmark, Brazil, the Dominican Republic, India, Pakistan, Guatemala, Venezuela and others, the Committee on Information had tried to do its utmost toward solving a most intricate problem.<sup>21</sup>

The Danish representative suggested that the "Special Committee's report" should serve "as an interim guide." He proposed that the governments of member states should be asked to transmit their views by June 1, 1952, and the special Committee "could then be asked to consider at its 1952 session any statements that had been submitted and review the 1951 list in the light of the comments received." Thus this representative felt the need for further elucidation of the factors.<sup>22</sup>

19. UNGAOR, Fourth Co. (6th Session), pp. 83-94.

20. *Ibid.*, p. 86.

21. *Ibid.*, pp. 83-86.

22. *Ibid.*, p. 90.



The representative of Pakistan supported this point of view and suggested that a longer and more intensive study of factors should be undertaken. According to him, "the very diversity of the Non-Self-Governing Territories ruled out an easy formula whether a given territory had achieved self-government or not."<sup>23</sup>

During the debate in the Fourth Committee the question who was to decide whether or not a territory was self-governing was discussed at length. One group of powers including Brazil, Cuba, Dominican Republic and Egypt believed that the competence to apply the test and give the final decision regarding the status of a non-self-governing territory rested with the United Nations.<sup>24</sup>

The representatives of Belgium, the United Kingdom and the United States argued against this point of view. According to them, since this was a constitutional question their governments could not surrender their sovereignty and the right of decision.<sup>25</sup>

The representatives of Belgium, Greece, Netherlands, Dominican Republic and others felt that it was essential to define the term "self-government" before a detailed list of factors could be prepared.<sup>26</sup>

Though the majority of members desired "self-government" to be defined in precise terms, they differed regarding its meaning, and various definitions were suggested during the debate in the Fourth Committee.

The representative of Pakistan believed that complete freedom from any form of domination could only be defined as a "full measure of self-government."<sup>27</sup>

The representatives of Denmark and the Philippines considered that "self-government" could be attained both by association and independence.<sup>28</sup>

Thus one group of powers regarded self-government as indivisible and believed that nothing short of complete independence could be accepted as self-government. The other group, however, regarded it

23. *Ibid.*, p. 91.

24. *Ibid.*, p. 89.

25. UNGAOR, Plenary Meetings (6th Session), p. 355.

26. UNGAOR, Fourth Co. (6th Session), p. 90.

27. *Ibid.*, p. 36.

28. *Ibid.*, p. 90.

as divisible. They believed that autonomy in economic, social and educational aspects could be accepted as self-government. According to this group, self-government could be attained by various methods, and association with the metropolitan power was one of those.<sup>29</sup>

The discussions following the report of the Special Committee showed that many of the factors listed by the Committee needed to be explained. Moreover, the term "self-government" needed to be defined, and lastly it was necessary to reach an agreement regarding the authority or organ which should apply the test of factors to non-self-governing territories.

A survey of these debates reveals the divergent attitudes of the members regarding the meaning of self-government, the usefulness and function of factors and the authority competent to give the final decision regarding the status of a non-self-governing territory.

The administering powers in general believed that the competence to judge the status of a non-self-governing territory by taking into account the factors enumerated by the United Nations was within the exclusive jurisdiction of the administering powers.

In contrast, a second group of United Nations members held that the administering powers might be the final judges of this situation, but they had to get the prior consent of the Assembly in order to declare a territory self-governing.

The third group of members advocated the right of the Assembly to apply the test of factors and determine the status of a non-self-governing territory.

The administering powers were willing to accept the list of factors as a guide to decision to be made by them but they were not ready to accept it as a standard by which the General Assembly could make final decisions regarding the status of a non-self-governing territory.

The majority of members agreed that the question of preparing a list of factors was complex and involved certain political issues, which the Special Committee could not adequately consider, and suggested the desirability of creating a Sub-Committee of the Fourth Committee.

29. *Ibid.*, p. 90.

A joint draft resolution submitted by Denmark, Guatemala, Pakistan and Venezuela at the 218th meeting of the Fourth Committee in December, 1951,<sup>30</sup> was adopted by a vote of 36-0-9.<sup>31</sup>

The Sub-Committee created by this resolution was given the task of making a further study of factors. The Sub-Committee was requested to keep in mind the Special Committee's report and the various points of view expressed in the discussions of the Fourth Committee. It was further entrusted with the task of establishing the procedures for future study of this question.

The Sub-Committee consisted of the representatives of Australia, Cuba, Denmark, Guatemala, Iraq, the United States and Venezuela. It held eleven meetings. The list of factors recommended by this Committee in its report to the Assembly was titled : "Factors Which Should be Taken Into Account in Deciding Whether a Territory Is Or Is Not a Territory Whose People Have Not Yet Attained a Full Measure of Self-Government."

It recommended a draft resolution along with the list of factors.<sup>32</sup>

The list recommended by the Committee was divided into two main parts. The first was related to "Factors Indicative of the Attainment of Independence or Other Separate Systems of Self-government". The second was devoted to the "Factors Indicative of the Free Association (Whether in Federal or Unitary Relationship) of a Territory on Equal Status with other Component Parts of the Metropolitan Country."<sup>33</sup> The recommended list of factors consisted of a section titled "Introduction" besides the two main parts.

The "Introduction" pointed out that the territories which were covered by Chapter XI were those whose people had not attained a full measure of self-government. It mentioned the necessity of the enumeration of factors by the Assembly which could act as guides in determining the progress achieved by a territory. It further mentioned that only through the attainment of a full measure of self-government could a territory qualify to fall outside the scope of Chapter XI. It was recognized that the attainment of a full measure of self-government could be in various ways. But in every case the expression of

30. U. N. Document A/C. 4/L. 155.

31. UNGAOR, Fourth Committee (6th Session), p. 99.

32. U. N. Document A/C. 4/L. 180.

33. *Ibid.*, A/C. 4/L. 180 and Corr. 2.

the free will of the people was considered to be the paramount factor. It was also mentioned that the change had to conform to the wishes of the people expressed by a democratic process. It recognized that independence was one way of attaining self-government, but the union of the territory on a footing of equality with the metropolitan country or another state was also accepted as another principal method of attaining full self-government. It held that a third method of attaining a full measure of self-government needed to be studied. This concerned the territories which had neither become independent nor were fully integrated within the metropolitan country or another state, but had attained a full measure of self-government in their internal affairs. All the factors enumerated were not applicable *in toto* to each of the two main forms mentioned in the list. The factors were neither extensive nor definitive. A single factor or a combination of particular factors "could not be regarded as decisive in every case." It was mentioned that "each case should be judged according to its particular circumstances." The criteria listed under two separate headings could be used interchangeably for the purpose of determining the status of a territory.

The essential factors to be taken into account all related to the question of sufficient political advancement of the population. The factors listed under the first separate heading, had three parts : A, B, and C. Part A related to political advancement, and the opinion of the population. Part B mentioned international status. The third point under this related to the territory's international relation. Voluntary limitation of sovereignty was listed as the Fourth point under B, meaning the degree to which the sovereignty of the territory was limited by its own free will after it had attained either independence or some other separate system of self-government. The factors mentioned under C were titled "Internal Self-Government." It listed "Territorial Government" and explained it as meaning the freedom from interference or domination by the government of another state with regard to the internal government. This section referred to the effective participation of the population in the government of the territory through proper electoral and representative systems. Complete autonomy in social and economic affairs was also mentioned.

The second main heading related to the attainment of self-government through association. It mentioned political advancement, opinion of the population and geographical considerations. Under

constitutional considerations it was stated that the method by which the association was brought about should be considered, and furthermore it should be determined whether the association resulted from the constitutional provisions of the metropolitan country or was the product of a bilateral agreement which affected the status of the territory. Moreover, it was to be taken into account whether or not the constitutional guarantees provided under this system extended to the associated territory. It was also to be determined whether there were provisions for the participation of the territory on an equal basis in any changes in the constitutional system of the state.

In this section legislative representation, citizenship and government officials were listed under B. Subsection C of the second main heading was titled "Internal Constitutional Condition." It enumerated suffrage, meaning universal equal suffrage, free periodic elections by secret ballot and freedom of choice of the electoral candidates. It mentioned equal rights and equal status for the inhabitants and local bodies of the territory similar to those enjoyed by the inhabitants and local bodies of the other parts of the country; complete legislative autonomy by means of electoral and representative systems, in matters which in accordance with the normal terms of association were in the case of non-unitary systems, not reserved to the central government.

Since at the time of establishment of Sub-Committee 9, it had been recommended by the joint resolution responsible for this Committee's creation that this Committee should also study and determine a procedure for the further study of factors. The Sub-Committee proposed the establishment of an *Ad Hoc* committee in the draft resolution which it recommended.

The Danish representative held in the Fourth Committee that a further study of factors should be undertaken and that the list of factors indicative of the free association of a territory on equal status with other component parts of the metropolitan or other country, should be divided into two parts. In this way cases of association with a federal state should be considered separately from those of association with a unitary type of state. He held that though the Sub-Committee's list of factors recognizes this distinction and mentions the real test, in the case of association with a unitary state as "the territory should have equality of rights and status with other component parts of the state to which it was attached."<sup>34</sup> This delegate

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34. UNGAOR, Fourth Co. (6th Session), p. 272.

believed that it would have been better if the future study of factors had been entrusted to the Committee on Information.

The representative of Greece believed that the Sub-Committee's list of factors was not definitive. He felt that the proposed *Ad Hoc* Committee would have to decide "whether the establishment of a list of factors was really the best way of solving the problem" since no criteria could be applied to a particular case without considering the political circumstances of the case, which might be totally unrelated to factors. Thus "the application of any criteria chosen would be a highly political matter." He considered the list of factors submitted by the Sub-Committee as incomplete since it "had not considered who should be responsible for deciding in practice whether or not a given factor existed in a particular case."<sup>35</sup>

The delegate from Greece had further implied its support for the transmission of political and constitutional information on the basis of which the Assembly could determine the maturity of a territory to be regarded self-governing.

The Venezuelan representative supported this point of view and further recommended that the United Nations should lay down precise rules in the matter. He believed that since each non-self-governing territory was different, "the best method of examining such factors was to analyze the cases where the administering power had stated that it would cease to communicate the information provided for in Article 73e of the Charter." According to him, only the General Assembly could apply the criteria which were being determined, and the Assembly "alone could decide when a non-self-governing territory had actually attained full self-government."<sup>36</sup>

The delegate from the Dominican Republic stressed the need for the formulation of a legal definition of self-government by the proposed *Ad Hoc* Committee.

The representative of France denied the competence of the General Assembly to take a decision regarding the final status of a non-self-governing territory as the representatives of Greece, Cuba and Venezuela had implied. According to the French representative, Assembly resolution 334 (IV), suggested that the Assembly "could merely express opinions for the guidance of governments, which

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35. *Ibid.*, p. 272.

36. *Ibid.*, p. 273.

alone were competent to make a decision in the matter." This representative held that the question of autonomy should also arise in the case of territories on which no information had been supplied by the administering governments since "certain governments had under their jurisdiction territories whose inhabitants ought to be protected by Chapter XI of the Charter." <sup>7</sup>

The Netherlands delegate agreed with the French representative that the determination of the final status of a territory was only within the competence of the administering powers. He, however, doubted the use of prolonging the study of factors, since he felt that it was not possible to draw up a complete list of factors to cover all cases. <sup>38</sup>

The discussions regarding the factors recommended by Sub-Committee 9 show that many of the problems were still unsolved, and a further study of factors was inevitable. Moreover, the members widely differed regarding the authority which should be competent to apply the criteria provided by the factors in order to determine the status of a non-self-governing territory and this difference needed to be resolved.

The draft resolution suggested by the Committee <sup>39</sup> was adopted by the Fourth Committee with some slight amendment at its 241st meeting of January 9, 1952 by a vote of 39-0-6. <sup>40</sup>

By this resolution the Fourth Committee decided to appoint an *Ad Hoc* Committee of ten members to make a further study of factors, and report to the Assembly. However, the Fourth Committee decided to increase the number of members recommended by the Sub-Committee adding Burma and Belgium to the delegates of Australia, Cuba, Denmark, France, Guatemala, Iraq, the United States and Venezuela. Thus a balance was maintained between the administering powers and the delegates from other countries.

This resolution was adopted by the Assembly on January 18, 1952, without further discussion. The vote was 46-0-7. <sup>41</sup>

Thus Assembly resolution 567 (VI) requested the members to submit their views regarding factors to the Secretary General in

37. *Ibid.*, p. 274.

38. *Ibid.*, p. 274.

39. A/C. 4/L. 180 and Corr. 2, annexes I and II

40. UNGAOR, Fourth Co. (6th Session), p. 274.

41. UNGAOR, Plenary Meetings (6th Session), p. 355.

writing by May, 1952. The Secretary General was asked to convene the *Ad Hoc* Committee one week before the opening of the 1952 session of the Committee on Information. The list of factors annexed to this resolution was the same as had been recommended by the Sub-Committee.

### **Consideration of Factors in 1952**

The *Ad Hoc* Committee's report was presented to the Fourth Committee in late 1952. The representative of Iraq, speaking as the Chairman of the *Ad Hoc* Committee on Factors explained that the work of the *Ad Hoc* Committee had been "governed by certain general considerations." Firstly, it had recognized that the Committee was concerned with only non-self-governing territories as "covered by Chapter XI of the Charter. Secondly, the consideration of the question of what authority should give the final verdict regarding whether or not a territory had attained complete self-government was considered to be outside the competence of the *Ad Hoc* Committee. Various members of the *Ad Hoc* Committee had reserved their right to deal with that question in the General Assembly. Thirdly, the question of the extent to which Article 73e continued to apply to territories which had become neither independent nor fully integrated within another state but which had attained a full measure of self-government in their internal affairs, had been agreed to be left for the General Assembly's consideration. However, a list of factors submitted by the Netherlands representative relating to this question had been included in the Committee's report.<sup>42</sup>

The Australian delegate criticized the usefulness of the list of factors which had been studied and revised by the *Ad Hoc* Committee. This representative also doubted the practical value of a list of factors. However, his chief criticism was against the attempt made by annex to the General Assembly resolution 567 (VI) to establish that the attainment of independence was one of the means by which a territory could achieve self-government. According to the Australian delegate, this "was based on an unjustified interpretation of the provisions of Chapter XI." Since in spite of his suggestion in the *Ad Hoc* Committee that an attempt should be made to "define the basic terminology" regarding this, the *Ad Hoc* Committee had evaded the question. Thus he still believed that a definition of "self-government" was necessary before a list of factors could be prepared and he

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42. UNGAOR, Fourth Co. (7th Session), p. 151.



could not accept the Committee's report. He further argued that "independence or association with other countries or territories were not characteristics of complete self-government but they were its consequences."<sup>43</sup>

The French, the United Kingdom and the Netherlands delegate supported this point of view. The Netherlands delegate further argued that the omission of the word "independence" from the text of Article 73e was the only cause of difference between it and Article 76b, relating to the international Trusteeship system.<sup>44</sup>

According to the French representative the *Ad Hoc* Committee had not improved the list of factors annexed to resolution 567 (VI). He recalled that parts of the list annexed to this resolution had been objected to by some members.<sup>45</sup>

Thus these representatives were quite explicit in showing their displeasure toward the factors suggested by the *Ad Hoc* Committee.

Both French and Belgian representatives regarded this study of factors incomplete. These representatives recommended that the guarantees contained in Chapter XI should be applied to all non-self-governing territories. According to them, any study which ignored the universality of the problem was likely to result in unjust conclusions.<sup>46</sup>

The Belgian representative argued that the question of cessation of information was closely related to that of transmission of information. He mentioned that paragraph I of the operative part of Assembly resolution 334 (IV) supported this. Moreover, according to this delegate, the title of the *Ad Hoc* Committee's report showed that the drafters of resolution 567 (VI) felt the same way. Thus he argued that the *Ad Hoc* Committee should have considered the conditions the presence of which would compel a territory to start transmitting information on its dependencies, just as it had studied the conditions whose presence would entitle an administering power to cease transmitting information."<sup>47</sup>

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43. *Ibid.*, pp. 153-154.

44. *Ibid.*, p. 154.

45. *Ibid.*, p. 155.

46. *Ibid.*, p. 156.

47. *Ibid.*, p. 154.

The representatives of Argentina, Cuba, Egypt, India, Pakistan, Venezuela and a few others considered the *Ad Hoc* Committee's report as extremely useful.

Both the representatives of India and the United States believed it to be a careful and practical study of a difficult problem. The United States delegate further held that the question was brought to a stage ".....where the General Assembly might well adopt the report as representing the best consensus of opinion which could for the time being be achieved." However, he agreed with some of the other members that the factors could only serve as a guide in determining the status of a non-self-governing territory.<sup>48</sup>

The representative of France believed that the list of factors was incomplete since it did not provide for an intermediate stage of development by the non-self-governing territories. He explained this stage as the time when the territory "might have ceased to be non-self-governing within the meaning of the Charter without having secured complete independence or any other separate system of self-government."<sup>49</sup>

The representative of India contested this point of view. He felt that there were only two ways in which a non-self-governing territory could become self-governing. Either it could become fully independent like Indonesia and become a member of the United Nations, or a non-self-governing territory could be put under the Trusteeship System. He argued that at no stage of its development was a non-self-governing territory left untended by the Assembly. According to him, the United Nations maintained interest in such territories either by having them under Chapter XI, or Chapters XII and XIII, or by granting the territory full membership in the United Nations.<sup>50</sup>

The representative of Pakistan supporting this point of view argued that the United Nations could release an administering power from the obligation to transmit information "after it became convinced that the territory in question was ready for membership of the United Nations."<sup>51</sup>

48. *Ibid.*, p. 165.

49. *Ibid.*, p. 156.

50. *Ibid.*, p. 162.

51. *Ibid.*, p. 191.

Usually, this has been the rule; when a territory which had been non-self-governing obtained membership in the United Nations, no questions were raised about its status, since it was accepted as an independent country.

The representative of Peru recommended a further study of the factors since in spite of their differences regarding the shortcomings of the *Ad Hoc* Committee's report, the majority of members were dissatisfied with it and considered it incomplete.

In conclusion, it can be said that though this report was a useful attempt at dealing with a difficult task, the *Ad Hoc* Committee did not succeed in solving the disharmony among the members regarding factors as listed by other bodies preceding it. The question regarding the authority which could apply the test of factors to particular territories was still undecided. The administering powers still maintained it to be their privilege to pronounce the final status of a non-self-governing territory. The *Ad Hoc* Committee had presented no final solution to this problem, but had postponed its consideration.

One group of United Nations members held that the factors laid down by the *Ad Hoc* Committee and approved by the Assembly should not only be a guide but should form the ultimate criteria for the Assembly's decision regarding the status of a non-self-governing territory. Thus these members demanded a precise and exhaustive list of factors applicable to non-self-governing territories in general. According to them, the *Ad Hoc* Committee had failed to provide any such list.

The representatives from the "people's" democracies held that the right of self-determination of peoples should be the predominant factor in judging the status of a territory. This group was opposed to both the Assembly and the administering powers making the final decision on the status of a non-self-governing territory. They criticized the *Ad Hoc* Committee's report as unsatisfactory since it did not recognize the importance of the particular factor advocated by them. However, this group ignored the importance of the degree of economic, political and social development of the territories in question.

The members were dissatisfied with the *Ad Hoc* Committee's report because it had not tried to define self-government. Moreover, some administering members protested its recognition of independence

as a necessary condition for self-government, since the use of this word would obliterate the difference between the provisions of Chapters XI, XII and XIII.

Some members thought a further study of factors would be useful in clarifying the factors related to the attainment of self-government through association with the metropolitan country or any other state.

Belgium and France regarded the *Ad Hoc* Committee's study to be one-sided and incomplete since it did not make a study of factors applicable to all the non-self-governing territories to which the guarantees of Chapter XI applied. According to these two powers, the conclusions of the *Ad Hoc* Committee were unjust, since they were based on a few selected non-self-governing territories.

The delegations of Burma, Cuba, Egypt, Guatemala, Iraq and Venezuela submitted a draft resolution in late 1952. All these powers had been members of the *Ad Hoc* Committee except Egypt. This six-power draft resolution was in essence a proposal for the further study of factors.

The United States delegate opposed this resolution since, according to him, it proposed that the authority to judge the final status of a territory should rest jointly with the Assembly and the administering power concerned. Moreover, he felt that the resolution was unacceptable because it regarded autonomy as indivisible and denied the possibility of economic, social and educational autonomy without political autonomy. The administering powers were asked to transmit information on their non-self-governing territories until they were self-governing; information was requested not only on economic, social and educational matters but also on political matters, and thus his government was unable to accept the proposed resolution.<sup>52</sup>

The Australian delegate supported this point of view and argued that a non-self-governing territory could be regarded as self-governing by having autonomy in social, economic and educational matters. He said: "In the nineteenth Century, Australia, and New Zealand while not regarded as non-self-governing, had enjoyed self-government in all matters except defence and foreign policy; in due course they had attained self-government in those matters too." He said that Western Samoa seemed to be following the same line of

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52. *Ibid.*, p. 166.

evolution. Thus he requested that evolutionary processes of attaining self-government should be recognized.<sup>53</sup>

The draft resolution was adopted by the Fourth Committee with a few minor amendments by a vote of 34-12-8. All the administering powers voted against it. India, the Union of Soviet Socialist Republics, other countries of the Soviet bloc, some Latin American countries, the Arab countries, Indonesia, Pakistan and the Philippines voted in favour. A few Latin American countries, Greece, Israel, and Norway abstained.<sup>54</sup> The Assembly adopted this resolution without any discussion by a vote of 36-15-7. It was opposed by all the administering powers.<sup>55</sup> Resolution 648 (VII) was titled "Factors Which Should Be Taken Into Account in Deciding Whether a Territory Is Or Is Not a Territory Whose People Have Not Yet Attained a Full Measure of Self-Government." This resolution created a new *Ad Hoc* Committee on Factors consisting of Australia, Belgium, Burma, Cuba, Guatemala, Iraq, the Netherlands, the United Kingdom, the United States and Venezuela. The Committee was requested to make a further study of factors taking into account the list of factors prepared by the previous *Ad Hoc* Committee, and the statements submitted by the various governments in response to resolution 567 (VI). This Committee was asked to define the concept of a full measure of self-government for the purpose of Chapter XI. It was requested to take into consideration the features guaranteeing the principle of self-determination of peoples and manifestation of the freely expressed will of the people regarding their national and international status. The resolution mentioned that the provisionally annexed list of factors should act as a guide in cases of cessation of information which might come before the Assembly.

The factors attached as an annex to the resolution had two main parts, like the factors listed in resolution 567 (VI). These were entitled "Factors Indicative of the Attainment of Independence," and "Factors Indicative of the Attainment of Other Separate Systems of Self-Government." The "Factors Indicative of the Free Association of a Territory with Other Component parts of the Metropolitan or Other Country" formed a sub-heading under the second main heading. The factors listed in this sub-heading were similar to those

53. *Ibid.*, p. 182.

54. *Ibid.*, p. 199.

55. UNGAOR, Plenary Meetings (7th Session), p. 355.

listed in the annex of resolution 567 (VI) under the same title. There were minor differences, however, in the method of listing and the way these were elaborated.

The resolution considered it essential in order for a territory to be considered self-governing in economic, social, and educational affairs that its people attain a full measure of self-government as mentioned in Chapter XI of the Charter.

These resolutions, therefore, further elaborated the provisions of Chapter XI. The delegates of Australia, Belgium, France, Canada, the Netherlands, New Zealand, the United Kingdom, the United States and the Union of South Africa had maintained that the administering powers were the only authority to judge the political status of a non-self-governing territory. Resolutions 567 (VI) and 648 (VII) were Assembly decisions which were attempts to divide the competence to judge the status of such a territory between the Assembly and the administering members. However, there were certain limitations. These factors were not the final determinants, but were meant to be used as guides in reaching conclusions regarding the status of non-self-governing territories. The Assembly could judge cases of the cessation of information which were forwarded for its consideration by the administering powers. The factors provided the criteria for such decisions of the Assembly. However, if the cases were not referred to the Assembly, it had no way of compelling the administering powers to adhere to the criteria provided by these resolutions. Thus, the efficacy of the factors were dependent both on the Assembly and the administering powers, and have been applied to only such cases of cessation of information as were specifically referred to the Assembly.

In recognition of the dissatisfaction of the United Nations members regarding the report of the previous *Ad Hoc* Committee on Factors, a further study of factors by a new committee was proposed by this resolution.

### **Belgian Thesis**

Some United Nations members tried to broaden the meaning of the term "non-self-governing" by urging a broader application of the term. According to these representatives, no study of factors could be complete unless it provided criteria for all non-self-governing territories. These members felt that the existence of a large

number of non-self-governing territories was ignored by the Committee on Factors established by the Assembly. These powers, therefore, believed that the studies on the subject of factors were incomplete and unsatisfactory. They argued that the conclusions derived from these studies were unjustifiable since they were based on limited evidence.

The Belgian representative believed that there were thirty-four areas not mentioned in the list of non-self-governing territories, but the circumstances prevailing in these territories and their relationship to the administering power qualified them to be accepted as non-self-governing.<sup>56</sup> He mentioned the North-western Territory of Canada, the Northern Territory of Australia, the Territories of Quintano Roo and Baja California of Mexico, the Andaman and Nicobar Islands of India, and the five Federal Territories of Brazil, as non-self-governing territories. Besides these, he referred to the Benin Coast of Liberia and said that the rulers of Liberia had nothing in common with the indigenous inhabitants of this coastal area except colour.<sup>57</sup>

According to the Belgian delegate, the Dyaks in Borneo, the territory of the Somali people under Ethiopia, Moro and other tribal territories in the Philippines and Easter Island under Chile could be placed in the category of non-self-governing territories.<sup>58</sup> He made further reference to the Indians in the United States, the Negroes in South Africa,<sup>59</sup> the Naga tribes in India and the Indians of the Orinoco in Venezuela.<sup>60</sup> According to this representative, if some of the factors annexed to resolution 567 (VI) were taken into consideration, these people would be put in the category of non-self-governing peoples, because their status was not the product of the freely expressed will of the people.

He denied, however, that he believed that all these populations came under Article 73e of the Charter. He expressed the desire that the position of these peoples should be examined and thus listed the cases in which according to him the "...examination was most likely to give positive results."<sup>61</sup>

56. UNGAOR, Fourth Co. (10th Session), p. 80.

57. *Ibid.*, (7th Session), p. 77.

58. *Ibid.*, p. 169.

59. U. N. Document A/AC. 58/1.

60. UNGAOR, Fourth Co. (7th Session), p. 169.

61. *Ibid.*, p. 190.

The Belgian delegate, quoting from Professor Hans Kelsen, argued in the Fourth Committee that the expression "territories whose peoples have not yet attained a full measure of self-government" was highly ambiguous. The people of the whole territory of a member state might not have attained full measure of self-government. He felt that the authors of the Charter had probably meant only territories "inhabited by relatively primitive aborigines with a backward civilization." He further argued in the Fourth Committee that though an ambiguity existed about the provisions of this particular Chapter, it was questionable whether the benefit of the doubt should be given to the peoples concerned by adopting the interpretation most favourable to them.<sup>62</sup>

Mr. Ryckmans, the Belgian delegate, admitted in the Fourth Committee that the terms of the Charter were less clear than the terms of the League of Nations Covenant. He felt that all commentators of the United Nations Charter emphasized its lack of clarity. The covenant spoke about "indigenous population," whereas the Charter used the expression "territories whose peoples have not yet attained a full measure of self-government." He was not sure what peoples were meant. Were small tribes in America or Asia which, like those in Africa, had remained at the stage of tribal organization, or were still completely savage, to be regarded as having attained a full measure of self-government? He further questioned if the realities of the situation could be ignored and the term "metropolitan territory" extended to include the territories where such peoples lived.<sup>63</sup>

The Belgian delegate said in the Fourth Committee that the problems dealt with in Chapter XI related to the prosperity and political, economic, cultural and social progress of the non-self-governing peoples, and argued that similar problems existed wherever there were undeveloped ethnic groups.<sup>64</sup>

According to this representative, the General Assembly's recommendations regarding the problems prevailing in non-self-governing territories were as valid for the powers which had not so far been considered administering powers as for those which had been considered. According to him, certain members of the United Nations had expressed the wish to know what steps had been taken to carry out

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62. *Ibid.*, (7th Session), p. 23.

63. *Ibid.*, p. 23.

64. *Ibid.*, p. 22.



the recommendations, but they had not said whether they themselves had done anything about their dependencies. He felt that this silence was not in keeping with the spirit of co-operation which was one of the fundamental purposes of the United Nations.

India, Ethiopia, Iraq, Liberia, Pakistan, the Philippines Uruguay and Venezuela among others doubted the validity of the Belgian definition of non-self-governing territories in the Fourth Committee. According to them, the records of the San Francisco Conference clearly showed that Chapter XI of the Charter applied only to dependent peoples living in dependent territories. They argued that Article 74 established a distinction between metropolitan areas and territories to which Chapter XI applied. These members believed that the protection of minorities living within the frontiers of sovereign states was covered by other Chapters of the Charter, and was the responsibility of other United Nations bodies, other than the Fourth Committee, the Trusteeship Council or the Committee on Information from Non-Self-Governing Territories.<sup>65</sup>

The representative of Iraq stated in the Fourth Committee that at San Francisco, the Chairman of the Committee responsible for the drafting of the Chapter had said that in his opinion it was understood that the Chapter would not apply to metropolitan territories. He said that document A/C.4/346, which dealt with the replies received from member states in 1946, indicated that Canada and the United States had put forward the same arguments. According to him, the Belgian thesis could not be accepted as valid either by examining the constitutional background of the United Nations Charter or on the basis of the current provisions of the Charter.

Belgium, France and the United Kingdom have generally argued in the Fourth Committee that the non-administering powers were just as much answerable for their ethnic minority groups as the administering members were for their colonies and protectorates. However, strict adherence to this theory of Universality has not been demanded.

Although the Belgian thesis has not gained the legal support of the administering powers, a few of them have sometimes adopted this line of argument in the Fourth Committee. The United States delegate argued in the Fourth Committee in 1946 that Chapter

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65. *Ibid.*, p. 32. Also, UNGAOR, Fourth Co. (8th Session), p. 59.

XI of the Charter would appear to apply to any territories administered by a member of the United Nations which do not enjoy the same measure of self-government as the metropolitan area of that member.<sup>66</sup> The French representative fully supported the Belgian point of view in 1952, while the report of the *Ad Hoc* Committee on Factors was being discussed in the Fourth Committee.

The Belgian concern for the "primitive indigenous groups in many countries," "as peoples who had been deprived of International supervision by an artificially restrictive interpretation of Chapter XI of the Charter" seems to have been prompted by its desire to embarrass the United Nations members who were trying to expand the obligations relating to non-self-governing territories.<sup>67</sup> According to Inis L. Claude :

"the Belgian tactic was very much like that of the States bound by the League minority system, who had expressed their resentment and hostility toward the system by asking that it be universalized ; Belgium was playing the game, 'if you can't beat them make them join you.'<sup>68</sup>

The Belgian thesis had completely failed. The United Nations' attempt to define non-self-governing territories has not been influenced by this particular thesis. The subsequent list of factors were in no way influenced by the Belgian request for a more extensive study. This might be due to the reluctance of the administering powers to support it and its rejection by the other members, as opposed to the constitutional background, and current provisions of Chapter XI. Thus the Belgian thesis did not succeed in bringing other territories besides those mentioned in 1946 under the category of non-self-governing territories. However, it contributed in creating a general feeling among the members that the list of non-self-governing territories was incomplete and there were many other territories which could be listed as non-self-governing.

66. U. N. Document A/74/Add. 2, p. 25 as cited in R. E. Asher, *The United Nations and The Promotion of General Welfare*, p. 890.

67. Inis L. Claude, Jr. *National Minorities An International Problem* (Cambridge : Harvard University Press, 1955).

68. *Ibid.*, p. 172.

69. U. N. Document A/2428.

**Study of Factors in 1953**

The second *Ad Hoc* Committee on Factors met from July 21 to July 31, 1953. In its report to the Assembly,<sup>69</sup> the *Ad Hoc* Committee recognized the fact that these factors were to serve as a guide in determining whether a particular territory had attained a full measure of self-government. It considered any further study of factors as unnecessary. However, it slightly amended the list of factors annexed to resolution 648 (VII).

The list of factors recommended by the *Ad Hoc* Committee was divided into three parts. The first part related to factors indicative of the attainment of independence.

The second part of the list was titled "Factors Indicative of the Attainment of Other Systems of Self-Government in Continuing Association with the Metropolitan Country or in Other Forms."

The third part related to "Factors Indicative of the Free Association of a Territory with the Metropolitan or Other Country as an Integral Part of That Country."

This was a much more extensive list compared to the one attached to resolution 648 (VII). It divided the factors into three separate parts, while the other two lists found in the annexes of resolution 567 (VI) and 648 (VII) had only two parts. Contrary to the previous lists, this list recognized the possibility of the attainment of self-government through association with the metropolitan government in both the second and third parts of this list of factors. Thus association with the metropolitan state was recognized as a very likely and frequent way of attaining self-government. This method of attaining self-government was accepted as similar to the attainment of independence by a non-self-governing territory. The three procedures regarding the attainment of complete self-government were listed together in three different categories and the non-self-governing territories were free to choose any of the three methods. However, in all the three cases their choice had to be expressed by some democratic process.

The phrase "continuing association" used in the second part aroused vehement criticism from the Soviet bloc since these members would have preferred "independence" as the only way of attaining self-government. They regarded the use of this phrase as an attempt at perpetuating colonialism.

The question of factors was considered both by the Fourth Committee and the General Assembly. Commenting on the list of factors in general, the representatives of Argentina, Bolivia, Burma, Denmark, the Dominican Republic, France, Greece, Haiti, India, Indonesia, Israel, Saudi Arabia, Syria, Thailand, the United Kingdom and the United States held that the list of factors could serve only as a guide in individual cases. A number of members emphasized the futility of authorizing a further study of factors. The Philippine representative recommended in the Fourth Committee that the list of factors should be applied and there was no need for a further study of the question.<sup>70</sup>

The Soviet Union and Poland found the second and third parts of the list of factors unacceptable since, according to these members, these did not provide for the attainment of self-government by non-self-governing territories. They felt that it aimed to serve the "...perpetuation of colonial rule under another form, instead of serving the aim of ultimate independence for dependent peoples."<sup>71</sup>

Belgium, France, Netherlands, Bolivia and Peru among others felt that there was no use in enumerating the factors which would qualify a territory to be categorized as self-governing, unless a definition of complete self-government could be laid down, since "...without a precise definition of a full measure of self-government, it was very difficult to prepare a list of factors to determine whether a territory had attained that objective."<sup>72</sup>

There were wide divergencies of views among the members of the United Nations regarding the usefulness of the list of factors prepared by the *Ad Hoc* Committee on Factors. These differences were the result of their interpretations of the provisions of Chapter XI of the Charter. Each member wanted the list of factors to agree with his own concepts. Thus it was difficult to arrive at agreed criteria which could be used as a guide. Moreover, the authority or organ competent to apply these criteria to particular non-self-governing territories could not be determined.

A number of representatives emphasized the need for reconciling these different points of view. The representatives of Brazil,

70. UNGAOR, Fourth Co. (8th Session), pp. 61, 63, 67, 69.

71. *Ibid.*, pp., 42, 58, 59.

72. *Ibid.*, pp. 42, 58, 59.

Canada, Cuba, Norway, Pakistan, the Philippines, Sweden, Venezuela and Yugoslavia were eager to bring agreement between these various groups.

In October the representative of Brazil presented a draft resolution to the Fourth Committee.<sup>73</sup> This proposal had eight points. It recommended that the Assembly should approve the list of factors contained in the report of the *Ad Hoc* Committee, and accept the conclusions of the report of this committee. It further proposed that the annexed list of factors should be used as a guide by the administering members and the Assembly in deciding the status of an individual territory according to its particular circumstances. While studying each case, evidence showing that the people concerned had exercised their right of self-determination should merit special attention. The factors should serve as a guide and in no way hinder the attainment of self-government of a non-self-governing territory. The draft resolution stated that for a territory to be considered self-governing in economic, social and educational matters it was essential that its people should have attained complete self-government as mentioned in Chapter XI of the Charter. It proposed that the Assembly should instruct the Committee on Information to study any subsequent documentation concerning cessation of transmission of information in the light of the list of factors approved by the current resolution among other relevant considerations which might arise from each concrete case of cessation of information; it recommended that the Committee on Information could propose modifications to the list of factors if due to the change of circumstances or difficulty in application the Committee on Information thought it to be necessary.

Bolivia, Egypt, Guatemala, Indonesia, Iraq, Mexico, Saudi Arabia, Syria, Venezuela, Yemen and Yugoslavia proposed some amendments to this draft resolution.<sup>74</sup> This ten-point amendment proposed the addition of a statement accepting the competence of the General Assembly to consider the principles that should guide the United Nations and the member states in the implementation of the obligations arising from Chapter XI of the Charter and make recommendations with regard to them. It also proposed that the Assembly should adopt a revised list of factors.

This amendment was followed by another twenty-four-point amendment proposed by the sponsors of the previous amendment ;

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73. U. N. Document A/C. 4/L. 272.

in this amendment the provisions of the previous amendment were included.<sup>75</sup> It proposed the addition of some more factors. The representatives of Belgium, Denmark, France, New Zealand, the Union of South Africa, the United Kingdom and some other members opposed the adoption of the eleven-power amendment, since these members felt that no changes should be made in the list of factors approved by the *Ad Hoc* Committee.

The introduction of the amendment was followed by discussions and debates on the question of the Assembly's competence to decide whether or not a territory had attained full measure of self-government. The representatives of Argentina, Bolivia, Brazil, Burma, the Byelorussian S. S. R., Chile, China, Columbia, Cuba, Czechoslovakia, Greece, India, Indonesia, Iran, Iraq, Lebanon, Mexico, Pakistan, the Philippines, the Ukrainian S. S. R., the Union of Soviet Socialist Republics, Uruguay, Venezuela and Yugoslavia felt that the Assembly had the competence in this matter.

According to the Belgian delegate, if the Assembly thought itself competent to decide whether an administering power should be compelled to continue the transmission of information, it should also be competent to decide whether a state which had not previously transmitted information should begin to do so or not. Moreover, he suggested the general application of the list of factors.<sup>76</sup>

The eleven-power amendment recommended the replacing of the title of the second group of factors recommended by the *Ad Hoc* Committee.<sup>77</sup> The amendments suggested the title "Factors Indicative of the Attainment of Other Separate Systems of Self-Government." The factors concerning voluntary limitations of sovereignty were explained as the presence of evidence to show that the attributes of sovereignty which were no longer individually exercised would be collectively exercised by the "larger entity" resulting from association of a non-self-governing territory with the metropolitan state. It also recognized the freedom of the population of a territory which had associated itself with the metropolitan country to modify this status by democratic means whenever it desired to do so.

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74. U. N. Document A/C. 4/L. 273.

75. *Ibid.*, A/C. 4/L. 274.

76. UNGAOR, Plenary Meetings (8th Session), p. 309.

77. U. N. Document A/C. 4/L. 274.

Besides the change mentioned, the eleven-power amendment proposed the addition of some more factors to the *Ad Hoc* Committee's list of factors as given under the second part of the list. These were freedom of choosing on the basis of the right of self-determination of peoples between several possibilities including independence, geographical considerations, ethnic and cultural considerations and change of political status.<sup>78</sup>

The title of the third part of the list of factors recommended by the *Ad Hoc* Committee was proposed to be changed to "Factors Indicative of the Free Association of a Territory on an Equal Basis with the Metropolitan or Other Country as an Integral Part of that Country or in Any Other Form." Thus the phrase "equal basis" and "in any other form" were added to the title recommended by the *Ad Hoc* Committee.

The deletion from the factors concerning constitutional considerations, the phrase "by virtue of the constitution of the metropolitan country" was recommended, and accepted by the Fourth Committee. The insertion of an additional factor regarding the freedom of the population of a non-self-governing territory which had associated itself with the metropolitan country or other state to modify this status by democratic means was recommended. The Fourth Committee accepted this recommendation.

To the text recommended by the *Ad Hoc* Committee concerning geographical considerations, the Fourth Committee decided to

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78. "*Geographical Considerations*—Extent to which the relations of the non-self-governing territory with the capital of the Metropolitan Government may be affected by circumstances arising out of their respective geographical positions, such as separation by land, sea or other natural obstacles and extent to which the interests of boundary states may be affected bearing in mind the general principle of good neighbourliness referred to in Article 74 of the Charter.

"*Ethnic and Cultural Considerations*—Extent to which the populations are of different race, language or religion or have a distinct cultural heritage, interests or aspirations, distinguishing them from the peoples of the country with which they freely associate themselves.

"*Change of political status*—The right of the Metropolitan country or the territory in the light of the consideration whether that territory is or is not subject to any claim or litigation on the part of another state."

add a further provision on the recommendation of the eleven-power amendment. Thus it read :

“Extent to which the relations of the Territory with the capital of the central government may be affected by circumstances arising out of their respective geographical positions, such as separation by land, sea or other natural obstacles.”

The addition of another factor was recommended by the draft resolution and was accepted by the Fourth Committee. This read :

“The right of the Metropolitan Country or the Territory to change the political status of that Territory in the light of the consideration whether that Territory is or is not subject to any claim or litigation on the part of another State.”

Thus certain changes were proposed by the eleven-power amendment which in essence constituted an effort to pacify the Soviet bloc and some other members which had criticized the *Ad Hoc* Committee's report. It especially recommended changes in the last two categories of factors relating to the attainment of self-government through association.

The administering powers believed that no changes could be made to the original list recommended by the *Ad Hoc* Committee on Factors appointed by resolution 648 (VII) as this would be a hasty decision in contrast to the *Ad Hoc* Committee's report which was the product of extensive debates and long consideration. The representative of Mexico representing the sponsors of the eleven-power amendment<sup>79</sup> argued that the amendments did not propose any substantial changes in the list of factors submitted by the *Ad Hoc* Committee. In his opinion only a few fundamental alterations were suggested, and these could be regarded as drafting amendments. In essence, according to this delegate, the amendments only shuffled the arrangement of factors recommended by the *Ad Hoc* Committee.

The second part of the list of factors as amended was accepted by the Fourth Committee by a vote of 24-18-11. The third part as amended was accepted by the Fourth Committee by 23-16-11 votes.

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79. U. N. Document A/C. 4/L. 274.



The revised list of factors as a whole was accepted by the Fourth Committee by a vote of 25-18-9.<sup>80</sup>

Finally the whole draft resolution as amended was adopted by the Fourth Committee by a vote of 27-23-2. Since the list of factors enumerated in the report of the *Ad Hoc* Committee was changed by the adoption of parts of the eleven-power amendment, the Brazilian delegate expressed his desire to withdraw the draft resolution which he proposed. But since this might complicate the task of the Committee, he decided to maintain the draft. This decision on his part was also due to his belief that if parts of his draft resolution were adopted, they would have the effect of annulling the amended list of factors.<sup>81</sup> The Fourth Committee accepted the list of factors annexed to the *Ad Hoc* Committee's report in amended form.<sup>82</sup>

The representative of Mexico proposed that the resolution should be adopted by the Assembly by a majority vote. This was opposed by the Danish representative since he regarded the question of factors as an extremely significant question. According to him, this draft resolution proposed to establish certain criteria to be applied in determining the field of application of Chapter XI of the Charter. Therefore, since it dealt with an important issue, it could not be passed by a simple majority vote. The representative of Denmark by his insistence that a two-thirds majority vote should be taken on this question, was referring to the procedure provided by Article 18 of the United Nations Charter. This article provides that decisions on important questions by the General Assembly should be made by a "two-thirds majority of the members present and voting." However, this Article does not refer to questions relating to Chapter XI as being subject to this provision. It mentions "questions relating to the operation of the Trusteeship System," (Chapters XII and XIII) and some other questions. "The rule of two-thirds majority applies also to the adoption of amendments to the Charter by the General Assembly."<sup>83</sup> The Danish delegate argued that since the adoption of a number of factors would determine the scope of Chapter XI of the Charter, and this would in effect amount to an elaboration of the original provisions of Chapter

80. UNGAOR, Fourth Co. (8th Session), p. 93.

81. *Ibid.*, p. 89.

82. *Ibid.*, p. 93.

83. Leland M. Goodrich and Edvard Hambro, *Charter of the United Nations, Commentary and Documents*, p. 113.

XI, it required a two-thirds vote. The President of the Assembly thought that this question deserved to be decided by the Assembly itself. She put the Mexican proposal to the vote, and the motion was adopted by 30-26-0 votes.

The draft resolution recommended by the Fourth Committee<sup>84</sup> and the annex to this resolution enumerating the factors were adopted by the Assembly on November 27, 1953. This was resolution 742 (VIII) adopted by a vote of 32-19-6.<sup>85</sup>

The first part of this list related to factors indicative of independence. The second part dealt with the factors indicative of the attainment of separate systems of self-government, and the third part related to the factors indicative of the free association of a territory with the metropolitan or other country as an integral part of that country or in any other form. Under this group were listed the same factors as were listed regarding the free association of a territory with another, in resolution 648 (VII).

This resolution recommended that the list of factors which was adopted by the Fourth Committee should be used by both the General Assembly and the administering members as a guide to determine whether or not any territory, due to changes in its constitutional status, is within the scope of Chapter XI of the Charter. Each case was to be decided in the light of its particular circumstances. The people of a territory must have attained a full measure of self-government for it to be considered self-governing in economic, social and educational matters. The documentation submitted by the administering members on their non-self-governing territories and the factors approved by the Assembly were to form the basis for study by the Committee on Information from Non-Self-Governing Territories. Thus the Committee on Information was to consider the validity of the reasons due to which a certain administering power had ceased transmitting information on its non-self-governing territory. The Committee on Information was asked to suggest changes which would improve the list of factors.

Resolution 742 (VIII) modified the provisions of the other two resolutions related to the problem of factors. It recognized the attainment of independence and other separate systems of self-government as similar and placed the factors dealing with these

84. U.N. Document A/2556. 1.

85. UNGAOR, Plenary Meetings (8th Session), p. 312.

in the same part of the list. However, there was a separate sub-heading under this first part titled "Factors Indicative of the Attainment of Other Separate Systems of Self-Government" which listed "Freedom of Choice" meaning the freedom of the people to choose on the basis of the right of self-determination any form of government which they desired including independence. This, in a way, granted the people of non-self-governing territories the right to choose their own form of government, which the other resolutions had not mentioned. Resolution 648 (VII) had listed the factors indicative of the free association of a territory with the metropolitan or other country as a sub-heading under the second part. Resolution 742 (VIII), however, recognized the importance of factors dealing with this particular form of self-government and listed it separately under a third main heading. Thus this amounted to the recognition of the problem which existed due to many such non-self-governing territories whose method of progressing towards self-government differed, and could not be included in either "independence" or other separate systems of self-government. Association or integration with the metropolitan country on the basis of "absolute equality" was given an important place by this resolution. However, the resolution recognized independence as the primary method by which a territory could become self-governing.

Thus the resolution modified and elaborated the factors enumerated by the two previous resolutions dealing with the subject. However, no precise definition of self-government could be evolved. There were several possibilities mentioned, and each territory was to choose its own form of full self-government. The resolution mentioned, however, that the attainment of economic, social and educational advancement were not enough for a territory to be considered self-governing. A territory had to be fully self-governing before being considered sufficiently advanced in other areas.

The resolution did not solve all the problems connected with this issue. Besides the absence of a precise definition of self-government, it also left undecided the authority which should be competent to apply the factors and determine the status of a non-self-governing territory. However, these resolutions were useful in preparing a guide which could be used by both the Assembly and the administering powers for determining the status of a non-self-governing territory.

## **Portugal and Spain**

The discussions regarding the possible inclusion of the territories belonging to Spain and Portugal in the list of non-self-governing territories and the subsequent General Assembly resolutions related to this subject constitute a third step on the part of the United Nations to define non-self-governing territories. The first two attempts to define the scope of Chapter XI were the endorsement by the Assembly of the original list of non-self-governing territories and the Assembly's attempts at preparing criteria for the purpose of judging the status of non-self-governing territories.

In December, 1955, sixteen new members were admitted to the United Nations. The Secretary General asked these new members to inform him whether there were any non-self-governing territories under their administration. This letter of the Secretary General, dated February 24, 1956<sup>86</sup> came up for discussion at the eleventh session of the General Assembly. By late 1956, twelve new members had replied to the Secretary General's letter saying that they did not have any non-self-governing territory under their administration. These members were Albania, Cambodia, Ceylon, Finland, Hungary, Ireland, Italy, Laos, Libya, Portugal and Rumania. Later a similar reply was received from Nepal.

Portugal and Spain have constantly refused to transmit information on their overseas dependencies. Portugal argued that it became a member of the United Nations only after Angola and Mozambique had become integral parts of Portugal, and thus information could not be supplied on its integral parts. According to the Portuguese delegate, since Portugal had a unitary constitution, transmission of information regarding some parts of its territory would be contrary to the provisions of Portugal's constitution. Therefore, according to Portugal the Portuguese overseas territories could not be accorded the same treatment as was accorded to other non-self-governing territories.<sup>87</sup>

Both Spain and Portugal were opposed to the acceptance of international accountability. They were aware of the fact that once they agreed to transmit information on their territories, they would be subjected to examination like the other administering powers.

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86. U.N. Document A/c. 4/33 and Add. 1, 2.

87. UNGAOR, Fourth Co. (11th Session), p. 355.

They wanted to steer clear of the possibility of being questioned about their territories.

The Spanish delegate denied in the Fourth Committee that Spain and Portugal had ever been colonial powers. In his understanding colonialism was accepted as meaning a system of extracting wealth and raw materials by using poorly paid indigenous labour, and this concept had emerged in world history after Spain and Portugal had completed their expansion.<sup>88</sup>

India, Iraq, Syria, the Union of Soviet Socialist Republics and Yugoslavia argued that the constitutional limitations cited by the Portuguese delegate were just an excuse to evade the obligations which Portugal had accepted by signing the United Nations Charter.<sup>89</sup>

The argument of the Portuguese delegate was rather weak since the adoption of resolutions 222 (III), 334 (IV) and the other resolutions on factors were attempts at granting the General Assembly the power to apply the test of factors together with the administering powers. The factors were to serve as guides in determining the status of non-self-governing territories in general. The Assembly was not granted the power of applying the criteria to particular territories in an attempt to decide its status.

The attempt of some members to compel Portugal and Spain to transmit information on their non-self-governing territories was opposed by France, Cuba, Brazil and others. According to these members, it amounted to an encroachment on the sovereign rights of Spain and Portugal. Most administering powers had made reservations when accepting the provisions of the resolution which were likely to affect the constitutional status of their dependencies. The United States delegate had emphasized while voting on resolution 748 (VIII) regarding Puerto Rico that, according to him, the power to decide on the constitutional status of a territory rested with the administering power concerned.

The representative of France supported the Portuguese position in the Fourth Committee. He did not see any reason for questioning the validity of the Portuguese Government's answer to the Secretary General's letter. He further recalled that other replies sent by the administering members on the similar question had been

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88. *Ibid.*, p. 347.

89. *Ibid.*, pp. 313, 320, 321.

accepted without any discussion. He stated that since France had always tried to preserve the sovereignty of the member states and asserted that because the member states were sovereign entities, it was within their exclusive competence to decide whether or not they administered non-self-governing territories. France opposed the attempts of some members to embarrass Portugal.<sup>90</sup>

According to the representative of Iraq, the Portuguese case could be used as a precedent, and if it was exempted from transmitting information on its non-self-governing territories, the other countries might demand similar exemption.<sup>91</sup>

Ceylon, Haiti, India and Poland based their arguments not only on the provisions of Chapter XI but also on the resolutions related to factors, which purported to strengthen the competence of the Assembly to apply the test of factors to non-self-governing territories. However, the factors did not deal with the transmission of information, and this omission was pointed out by Belgium. Since Spain and Portugal did not have their territories on the original list of non-self-governing territories, it was hard to make them submit such a list against their wishes.

In reply to the Spanish claim that Spain and Portugal were not colonizing countries but they had a civilizing mission, the Indian representative argued in the Fourth Committee that no distinction could be drawn between the colonizing and civilizing acts. He believed that since the case of Portugal was similar to that of France, the Netherlands, and the United Kingdom, and these members were transmitting information on their non-self-governing territories, Portugal should follow their example.<sup>92</sup>

In January, 1957, the Fourth Committee considered the question of the competence of the Assembly to interpret the application of Chapter XI. The debates in the Fourth Committee mainly dealt with the Portuguese possessions, although the Spanish territories in Africa were also referred to. The representative of Spain stated in the Fourth Committee that the reason for the Spanish government's not replying to the Secretary General's letter should not be misunderstood as an attempt to evade responsibility.

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90. *Ibid.*, p. 362.

91. *Ibid.*, p. 330.

92. *Ibid.*, p. 350.

The representatives of Ceylon, Greece, Liberia, Nepal and Syria submitted a draft resolution.<sup>93</sup> It proposed that an *Ad Hoc* committee should be established to study the application of the provisions of Chapter XI to new members. It should especially study the answer sent by the new members at the request of the Secretary General. It proposed that the Assembly should request new members to send their opinions in writing to the Secretary General by June 1, 1957, stating the extent of the applicability of Chapter XI of the Charter. The *Ad Hoc* Committee was asked to report to the twelfth session of the Assembly the result of its studies. It stated that the *Ad Hoc* Committee should take into account any explanations that the new members might give and make appropriate recommendations. The Secretary General should be asked by the Assembly to convene the *Ad Hoc* Committee soon after the 1957 session of the Committee on Information. The General Assembly was requested to recall that it had by resolution 334 (IV), considered it within its responsibility to express an opinion on the principles which had guided or might guide in future the administering members in enumerating territories for which there was an obligation to transmit information.

The administering members argued against the draft resolution. According to them, since the Charter was based on sovereign equality of all members, the establishment of the proposed *Ad Hoc* Committee would amount to discrimination against the new members. They believed that empowering the proposed *Ad Hoc* Committee to make recommendations regarding general interpretations of Chapter XI would constitute a revision of the United Nations Charter.<sup>94</sup>

Finally on February 5, 1957, the Fourth Committee adopted the resolution as a whole by 35-33-4 votes.<sup>95</sup> However, when this draft resolution went to the Assembly for adoption, it was rejected by it on February 20, 1957. The vote was 35-35-5. Since a two-third majority vote was required for it to be adopted, it was rejected by the Assembly.<sup>96</sup>

Another draft resolution submitted by Burma, Ceylon, Costa Rica, Ghana, Greece, Guatemala, India, Indonesia, Iraq, Lebanon, Nepal, Panama, Syria, Tunisia and Yugoslavia proposed that the Assembly should ask the Secretary General to prepare a summary of

93. U.N. Document A/c 4/L. 467.

94. UNGAOR, Fourth Co. (11th Session), p. 369.

95. *Ibid.*, 370.

96. UNGAOR, Plenary Meetings (11th Session), p. 1179.

opinions which have been expressed on the transmission of information under Article 73e. They proposed that this report should be based on the replies of new members to his communication and on relevant treaties on the interpretation of the Charter. An *Ad Hoc* Committee should be established consisting of six members to study this summary prepared by the Secretariat and report to the Assembly. According to the sponsors of this draft resolution, it was essential to make a detailed interpretation of Chapter XI. They believed that its meaning and scope needed to be defined. This draft resolution was adopted by the Fourth Committee by 42-27-8 votes.

When this draft resolution was presented by the Fourth Committee to the General Assembly for its consideration and endorsement, the representative of Colombia proposed that the voting procedure should be changed since a simple majority was not qualified to decide the question involved in the proposed resolution. He argued that because non-self-governing territories had not been properly classified, it raised the important question of the competence of the Assembly to deal with the question of transmission of information on some of these territories. Moreover, he held that the Assembly was considering a question which was ".....intrinsically important and which affects or may affect the constitutions of Member States and not in minor matters, but in questions of domestic public law." He, therefore, argued that a two-thirds majority decision was necessary on the question.<sup>97</sup>

Consequently, the President put to the vote the question whether or not the resolution should be decided by the vote of a two-thirds majority. It received 38-36-8 votes.<sup>98</sup> Thus, the decision was in favour of a two-thirds majority vote.

The Assembly rejected the draft resolution for lack of a two-thirds majority. The vote was 41-30-10.<sup>99</sup>

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97. UNGAOR, plenary Meetings (12th Session), p. 516.

98. *Ibid.*, p. 517.

99. *Ibid.*, p. 517. India, countries of the Soviet bloc and the U.S.S.R., Ceylon, Indonesia, Nepal, Egypt and some other Arab countries, some Latin American countries, African countries, Greece and Israel voted in favour. All the administering members, Canada, Sweden, Finland, Spain, Portugal, the Union of South Africa, Turkey, Iceland, Italy, Brazil, the Dominican Republic, Cuba, Colombia, Honduras, Luxembourg, Paraguay, Peru, Nigaragua and Pakistan voted against. While China, Japan, the Philippines, Thailand, Laos, Lebanon, Argentina, Ecuador, Venezuela and Ireland abstained.



The voting on both these resolutions especially in the Fourth Committee showed that the majority was in favour of their adoption; it was only the two-thirds majority requirement that kept these from being adopted by the Assembly. Therefore, the attempt to get information on Portuguese territories was defeated.

In 1959, India and the Philippines again broached the subject of the Portuguese territories and complained in the Fourth Committee about Portugal's failure to submit information on its non-self-governing territories.<sup>100</sup> Once more Portugal resorted to the same arguments that it had offered before. The representative of Portugal stated in the Fourth Committee that its constitutional structure precluded the application of Chapter XI or any of its parts to Portugal. Moreover, in his opinion only the administering members themselves could decide whether or not Chapter XI applied to them.<sup>101</sup>

The representatives [of] Canada, Ceylon, Ghana, India, Indonesia, Iran, Iraq, Ireland, Mexico and Yugoslavia submitted a draft resolution to the Fourth Committee. It proposed that the Assembly should establish a committee to study the principles which would help in determining whether or not there was an obligation to transmit information called for in Article 73e of the Charter. The members were requested to submit their opinions in writing to the Secretary General by May 1, 1960, so that this Committee could base its study on these opinions.

The representative of New Zealand spoke in favour of the draft resolution. According to him, since the draft resolution did not question the competence of the administering powers to make decisions concerning the transmission of information under Article 73e, he believed that "the results of the work of the proposed committee would be a useful guide to Member States."<sup>102</sup>

The representative of the Netherlands stated in the Fourth Committee that the sponsors of the draft resolution deserved to be congratulated for introducing a proposal "which commanded a wide measure of support despite the controversial nature of the subject." He favoured the resolution and thought that it was "a serious

100. *Ibid.*, Fourth Co. (14th Session), p. 552. Also *Ibid.*, p. 560.

101. *Ibid.*, (14th Session), p. 595.

102. *Ibid.*, p. 590.

attempt to find a compromise" between the opposing points of view.<sup>103</sup>

The United States delegate agreed with the points of view expressed by these two representatives and said that "the draft resolution represented a constructive approach, since its aim was to enumerate the principles which should guide Member States in determining whether the obligation existed to transmit information."<sup>104</sup>

The draft resolution was approved by the Fourth Committee by 53-9-12 votes.<sup>105</sup> The Assembly adopted the resolution on December 12, 1959, by a vote of 54-5-15.<sup>106</sup> Resolution 1467 (XIV) stated that since the administering members had agreed to transmit information regarding their non-self-governing territories as required by Article 73c, and by resolution 334 (IV), the Assembly had affirmed its right to express its opinion on the principles which should guide the administering members in enumerating the non-self-governing territories under their administration. It recalled that Assembly resolution 742 (VIII) further laid down the factors to be taken into account in determining the status of a non-self-governing territory. However, since divergent opinions prevailed amongst the members regarding the application of the provisions of Chapter XI to non-self-governing territories and on the obligation to transmit

103. *Ibid.*, p. 590.

104. *Ibid.*, p. 590.

105. *Ibid.*, p. 596. The United States, U.S.S.R., other countries of the Soviet bloc, Canada, India, most of the Afro-Asian countries, Arab countries, most Latin American countries, Pakistan, Philippines, Thailand and Turkey voted in favour. New Zealand abstained on the first preambular paragraph but voted in favour of the next two. Norway, Hungary, Greece, Israel and Japan voted in favour; Portugal, France, Belgium and the Union of South Africa voted against. Spain voted against twice and abstained on one preambular paragraph. The remaining administering powers either voted against or abstained. Finland voted once in favour and China invariably abstained.

106. UNGAOR, Plenary Meetings (14th Session), p. 726. The United States, the U.S.S.R., other countries of the Soviet bloc, New Zealand, Denmark, Norway, Sweden, Finland, Greece, Hungary, Canada, Iceland, Ireland, Israel, India, Japan, most of the other Afro-Asian countries, most Arab countries, and the majority of Latin American countries voted in favour; Peru, Portugal, Union of South Africa, Belgium, and France voted against. The remaining administering members, Spain, Italy, Netherlands, Panama, Paraguay, Austria, Brazil, Chile, Colombia, Dominican Republic, Guatemala and Honduras abstained.

information on these territories. It would be desirable for the Assembly to state the principles which would help the members in determining whether or not they had the obligation to transmit information required under Article 73e of the Charter. The resolution recommended the creation of a committee of six members to be elected by the Fourth Committee. Three of these members would be administering states and there would be three other members. The Committee would report the results of this study to the fifteenth session of the Assembly. The member states were requested to submit their opinions in writing to the Secretary General by May 1960. The Secretary General was requested to prepare a history of the matter along with a summary of the opinions expressed on it. India, Mexico, Morocco, the Netherlands, the United Kingdom and the United States were elected as members of this Committee.

The discussions on the Portuguese territories, and the Fourth Committee and the Assembly decisions regarding this subject show the two extreme positions taken by two different groups of United Nations Members. In reality one group was attempting to make a liberal interpretation of Article 73e of Chapter XI, while the other group was in favour of a strict interpretation. They held two different views regarding the competence of the Assembly to determine the scope of Chapter XI. The conservatives held that the Assembly had no competence to decide the scope of this Chapter; the liberals, on the other hand, were quite convinced that the Assembly had this power. These members supported their arguments by quoting the provisions of Chapter XI and also by recalling the Assembly decisions related to the question. For a time, it seemed impossible to bring these two extreme opinions together. Therefore, all resolutions dealing with the question under consideration were defeated. Ultimately the introduction of resolution 1467 (XIV) succeeded in narrowing the difference between the two opposing groups of power. It received an overwhelming support from the members. The voting on this resolution reveals the desire of the members in general to find a compromise proposal. They realized the need for a guide to determine the scope of Chapter XI. However, they were eager to preserve their prerogative of making the ultimate decision regarding the non-self-governing territories on which information could be submitted. France, Spain, Portugal, the Union of South Africa, the United Kingdom and Belgium chose to adhere to their previous extreme position. These members

regarded the resolution as an attempt to intrude into the domestic jurisdiction of members and thus voted against its adoption.

In 1959, Spain communicated to the Secretary General that its African territories were provinces of Spain. It had not replied to the Secretary General's note of 1955 till this date; consequently no debate had been held on the Spanish territories, and only passing reference was made to these territories while the Portuguese territories were being discussed. Both Spain and Portugal, however, had similar views regarding their dependencies. Both these countries argued that they had no colonies or protectorates and thus constitutional limitations prevented them from submitting information on integral parts of the metropolitan country.

The representatives of India, Yugoslavia, Poland, the Union of Soviet Socialist Republics, Pakistan, Burma, Iraq, Syria and Yemen among others argued that the Charter was a multilateral agreement and all the administering members had accepted certain obligations by accepting it. These obligations could not be fulfilled unless the meaning of non-self-governing territories was clear and definite. These powers agreed that the term had been used in an ambiguous manner, but believed that the Assembly was the only organ competent to define the term non-self-governing territories. These members held that the inclusion of a chapter on these territories in the Charter had brought them under international vigilance. Thus, since the non-self-governing territories were the joint responsibility of both the administering powers and the United Nations, the latter possessed the right to decide certain contested points relating to this question.

These members had tried to subject the Portuguese and Spanish territories to United Nations supervision, and had partially succeeded in this attempt. The debates and discussions held in the Fourth Committee and the Assembly and the resolutions resulting from these had made the contested non-self-governing territories the subject of examination by the United Nations members. However, this was the result of the shift in the position of some conservative and other members and both ultimately took a moderate stand on this question and agreed to a partially liberal interpretation of Article 73e.

The members in favour of a strict interpretation of Chapter XI, argued that Chapter XI of the United Nations Charter consisted of two articles and five sub-paragraphs. Sub-paragraph "e" of

Article 73 mentioned the obligations which the administering powers had accepted towards non-self-governing territories. In this paragraph there was no mention of transmitting political information. This omission was voluntary. According to them, a thorough examination of the constitutional background of this Chapter would strengthen this point of view. They argued that since political information was exempted from the categories of information to be submitted, it was not feasible for the United Nations to determine the degree of political advancement of non-self-governing territories. They felt that before the United Nations could give the final verdict on the attainment of self-government by a particular non-self-governing territory it was necessary for it to be acquainted with the political and constitutional conditions of the territories concerned. Moreover, according to them, since the Charter was silent on the submission of political information, the administering powers were the best equipped to decide when their non-self-governing territories could be termed self-governing.

The other members in favour of making a liberal interpretation of the Charter opposed this point of view. They asked that Chapter XI should be read as a whole. According to them, though subparagraph "e" did not mention political information, it did not prohibit its transmission. Moreover, they believed that since subparagraph "a" mentioned the word "political" and the administering powers had accepted the interests of the non-self-governing territories as paramount, and promised to make possible the rapid political progress and development of these territories, it followed that the United Nations should be kept informed on the degree of political progress achieved by the non-self-governing territories under the tutelage of these powers. They further argued that this was a multilateral agreement and by signing the Charter the administering powers had acceded to the authority of the United Nations to determine the extent of their obligations. Therefore, according to these members, the United Nations was fully justified in giving the final verdict on a non-self-governing territory.

India, Venezuela, Syria, Iraq, Indonesia, Pakistan, Ceylon, Mexico and others were somewhat inconsistent in their interpretation of the provisions of Chapter XI. They refused to accept the Belgian thesis, since they felt that Article 74 of Chapter XI made a clear distinction between the metropolitan and non-self-governing territories; yet these members argued in the Fourth Committee in favour of the

Portuguese and Spanish territories being automatically included in the list of non-self-governing territories while Portugal and Spain claimed them as integral parts of their metropolitan countries. Belgium, France and the United Kingdom had argued that there were many ethnic minorities in other countries which possessed virtually no right of self-determination. They felt that there were wide cultural and other differences between the majority and the minority groups. In this way, these powers had tried to draw a parallel between their non-self-governing territories and the ethnic minorities of these nations. Both sides had quoted Chapter XI to strengthen their arguments. The ambiguity of Chapter XI made these contrary interpretations possible, and there was no way to determine exactly which territories were meant by the term non-self-governing.

The General Assembly was entrusted with the task not only of deciding whether or not a non-self-governing territory had attained self-government, but also of deciding whether or not a territory was non-self-governing. However, the Assembly decisions have succeeded in laying down certain guiding principles only, the ultimate decision still rests with the administering powers. Yet the competence of the Committee on Information and the General Assembly has grown, possibly to an extent which the framers of the Charter could not foresee. The Assembly resolutions have purported to grant this body the right of giving suggestions and guidance to the administering members. This necessitates that the Assembly should be furnished with political information, in order to aid the administering powers to make the final decision. Though the Assembly is entrusted with the making of general policy, this general policy is applied to particular cases. The Assembly's favourable verdict is needed for the administering powers to cease transmitting information on their particular non-self-governing territory. This amounts to a degree of international supervision and accountability. The Assembly resolutions have succeeded in narrowing the difference between the non-self-governing territories and the Trusteeship Territories. The process of assimilation started by the creation of the Committee on Information has been further advanced by the adoption of the resolutions on factors by the Assembly.

The list of factors approved by the Assembly constitutes an attempt on its part to lay down a uniform yardstick which can be applied to non-self-governing territories. Therefore, the Assembly

has to some extent performed certain functions regarding non-self-governing territories, which even the Trusteeship Council was not empowered to perform. By considering the case of Portuguese and Spanish territories and establishing an inquiry committee on this issue the Assembly has probed far. However, the United Nations still does not have the power to compel any administering power to put its non-self-governing territories before the Assembly for consideration. The factors remain on paper and can be applied only to such territories as are presented to the Assembly for consideration by the administering power. Therefore, though the factors are binding on the administering powers to some extent, it is up to these powers to consent to the criteria and accept its application to their particular territories.

## CHAPTER VII

### Cessation of Information

Chapter XI of the United Nations Charter does not mention when the transmission of information required under Article 73e should cease. However, it can be implied from the provisions of Chapter XI that the transmission of information should cease as soon as a territory becomes fully self-governing.

Several states including the United States among others deny the competence of the Assembly to decide the question of cessation of the transmission of information. These states believe that the administering powers are the only competent authorities to judge when and how these non-self-governing territories can become self-governing. These members argued that the administering powers were to use their own discretion in making this decision. They felt that they could not be held answerable to the General Assembly or any other organ of the United Nations regarding the non-self-governing territories which were under their administration.

Contrary to this, the opposing group of members insist that since Chapter XI is an international obligation, and the administering powers have accepted the obligations ensuing from Chapter XI by signing the Charter, they have to submit to the authority of the General Assembly to determine the extent of these obligations. Moreover, these powers argued that the Assembly was also authorized to see that these members carried out the obligations accepted by them. In their view the Assembly must approve the decision to cease transmitting information.

The consideration of the question of cessation of information is very important. Since by considering this issue, the Assembly obtained and discussed political information. Therefore, it enhanced the competence of the Committee. Since the Committee was empowered to deal with areas not considered within its competence by the framers of the United Nations Charter, getting control over the question of cessation of information was significant as this gave



the Assembly the competence to examine the administering members' most significant political act.

The non-self-governing territories on which members had undertaken to transmit information under Article 73e of the Charter were enumerated in a resolution adopted by the General Assembly on December 14, 1946. These territories numbered seventy-four. In 1947 information had been received only on sixty-two and in 1948 on sixty-three of these territories. France, the United Kingdom, and the United States ceased to transmit information on certain of the territories enumerated by the Assembly. In some cases the administering members gave explanations for the cessation of the transmission of information. The original eleven territories on which information had been withdrawn included the British territory of Malta, and a number of French territories including Guadeloupe, Martinique, Guinea, New Caledonia and certain French possessions in the Pacific.

The representative of India held, in the 1948 session of the General Assembly, that the United Nations, in order to discharge properly its functions under Chapter XI of the Charter, should be officially informed of the constitutional changes in the territories concerned, to determine whether the cessation of the transmission of information was justified. Since, according to this delegate, the administering powers could cease transmitting information on their non-self-governing territories only when these territories attained complete self-government.<sup>1</sup> This delegate subsequently submitted a draft resolution to the 57th meeting of the Fourth Committee in 1948, requesting the administering members to provide information on the territories on which they intended to stop transmitting information, so that the Assembly could determine which of these territories could be considered self-governing.<sup>2</sup> This resolution was considered by the Committee at its 60th session in October, 1948. Objections were raised by the representatives of the United Kingdom, Belgium and Australia. These members felt that the proposed resolution went beyond the scope of Article 73 and tended to imply a supervisory role for the United Nations which it was not entitled to perform under the Charter. They felt that the non-self-governing territories had not been placed under the Trusteeship System, and no supervisory role could be given to the General Assembly.

1. UNGAOR, Plenary Meetings (3rd Session), p. 386.

2. U.N. Document A/C. 4/133/Rev. 1.

The United States delegate, however, supported the draft resolution. In his view it was only an attempt to strengthen the provisions of Article 73 of the Charter. He felt that the provisions of the proposed draft resolution were quite logical; the administering powers were requested to inform the Assembly "of any changes in the constitutional position or status of a territory as a result of which the responsible government would deem it unnecessary to continue to transmit information concerning a given territory...." However, this delegate emphasized the fact that the submission of such information by a government "in no way prejudiced its right to determine the constitutional status of any territory under its authority."<sup>3</sup> Thus the United States, while supporting the Indian resolution, made the reservation that the transmission of the information requested did not change the right of an administering state to determine the constitutional position of any territory under it.

The Polish representative proposed three amendments to this resolution<sup>4</sup>. The first amendment proposed that the administering powers should transmit information on every territory not yet fully self-governing. The second Polish amendment suggested the deletion of a part of the Indian draft resolution which proposed the welcoming of "any development of self-government that may have taken place." The third amendment proposed by Poland requested the submission, in addition, of information on "the structure and powers of the territorial government, including the extent and nature of the participation therein of the local inhabitants." All three amendments were rejected by the Committee. Thus the Polish attempt to increase the competence of the Assembly by obtaining for it the right to receive and examine detailed political information failed.

Finally the draft resolution submitted by India was approved by the Committee by a vote of 29-0-17. The resolution drew criticism and opposition from the United Kingdom, and from the French representatives. The representative of the United Kingdom stated that his government had always made public any changes affecting the constitution of a territory or its relationship with the metropolitan power, and it would continue to supply the United Nations library with publications containing detailed information on these questions. However, the United Kingdom was not prepared to

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3. UNGAOR, Plenary Meetings (3rd Session), p. 392.

4. U.N. Document A/C. 4/141.

accept the supervisory role of the United Nations with regard to the non-self-governing territories which was proposed by the draft resolution.<sup>5</sup> The representative of France said that he did not object to the substance of the resolution, since his government had already submitted such information and documents to the United Nations, but he opposed it on the ground that its adoption would represent an attempt to set a definition of non-self-governing territories, and his government did not feel that it was obliged to transmit to the United Nations the official instruments authorizing the changes, which might become a subject of discussion in the United Nations. In the opinion of his government the United Nations was not competent to consider constitutional and political questions concerning non-self-governing territories for which it was responsible.

An analysis of the voting on draft resolution V in the Fourth Committee shows the attitudes of the different member nations on this particular question.

The Union of Soviet Socialist Republics, along with other countries of the Soviet bloc, Denmark, the Netherlands, Norway, the United States, Mexico and some other Latin American countries, China, Pakistan, Philippines and Iraq voted in favour of the Vth resolution. The remaining administering powers including Australia, Belgium, New Zealand, and the United Kingdom abstained. The Union of South Africa, Canada, Saudi Arabia, Argentina and others also abstained. Finally the resolution was adopted by the Assembly as resolution 222 (III) on November 3, 1948, without opposition.<sup>7</sup> This resolution asks that the members concerned communicate to the Secretary General, within a maximum period of six months, such information as may be appropriate, including information on the constitution, legislative act, or executive order providing for the government of the territory. The resolution asks also that the "United Nations be informed of any change in the constitutional position and status of any such territory." This information was required by the United Nations when the administering member concerned thought it unnecessary to transmit information on certain non-self-governing territories due to constitutional advances made by the territory in question.

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5. UNGAOR, Plenary Meetings (3rd Session), p. 384.

6. *Ibid.*, p. 387.

7. *Ibid.*, P. 394.

A note of the Secretary General dated January 21, 1949, referred to the provisions of resolution 222 (III) of the Assembly dealing with the cessation of the transmission of information. The note also mentioned the territories on which information was withheld in 1947 and 1948. These were : the United Kingdom, Territories of Malta and Pitcairn Island ; the French Territories of Indo-China, French Establishments in Oceania, French Establishments in India, Guadeloupe and dependencies, New Caledonia and dependencies, French Guiana, Martinique, Reunion and St. Pierre et Miquelon ; and the Panama Canal Zone under the United States administration. The Secretary General requested the administering powers concerned to communicate such information as might be appropriate by May 3, 1949. The United Kingdom replied that it had already made it clear in 1947 both in the *Ad Hoc* Committee on the Transmission of Information under Article 73c and in the Fourth Committee that although Malta was not yet in full control of its external affairs, it had attained full responsibility for local self-government on September 5, 1947. Since economic, social and educational conditions in Malta were completely within the competence of the Government of Malta, the United Kingdom found it "inappropriate, and indeed impossible" to continue the transmission of information on these matters as required by Article 73c. It expressed the hope of being able to supply some information with regard to Pitcairn Island for the year 1948.

The French Government explained in a letter dated April 19, 1949, that "the determination of territories whose people have not yet attained a full measure of self-government lies exclusively within the competence of the States which have responsibility for the administration of such territories." The French Government further stated that its decision not to transmit information after 1947 on some of its dependencies was based on the acceptance that these territories had attained self-government to the extent of independence within the framework of the French Union.

The United States government communicated in a note of August 18, 1949, that Panama had contested in the Fourth Committee the transmission of information on the Panama Canal Zone by the United States ; and had held that it could not be regarded as a non-self-governing territory, since the sovereignty over the Canal Zone rested in the Republic of Panama. The United States, however, did not accept this position taken by Panama, yet it was unable to

transmit information on this particular territory till the consultations on the particular question were completed.

These three communications were brought to the attention of the Special Committee in 1949<sup>8</sup> and the Assembly. The Assembly, after noting the reasons given, declared by resolution 334 (IV) of December 2, 1949<sup>9</sup> that it could express its opinion on the principles which should guide members in determining the territories on which they were obliged to transmit information. It also invited the Special Committee to examine the factors which should guide the members in determining territories on which they were obliged to transmit information, and to examine the factors which should be taken into account in deciding whether or not a territory was non-self-governing. Since the problem was rather complex and there was not enough time available at the 1950 session of the Special Committee, the representative of Egypt proposed that the question be deferred until 1951. This suggestion was accepted.

The question of action on the matter of the development of self-government was raised at several meetings of the Fourth Committee in late 1950. The representative of Cuba suggested that since the question at issue was extremely important and "involved important matters of principle and practical policy," the matter should be dealt with by the Fourth Committee.<sup>10</sup>

At this meeting of the Fourth Committee, the representative of the Dominican Republic, while referring to the subject of the development of self-government in non-self-governing territories, said that it was essential for the non-self-governing territories not to lose their special position and become incorporated into the metropolitan country.<sup>11</sup>

It was not until December 12, 1950, that action was taken on the question of the development of self-government in non-self-governing territories. A draft resolution was introduced by the representative of India at the 190th meeting of the Fourth Committee in 1950.<sup>12</sup> This draft resolution was adopted by the Fourth Committee, and finally adopted by the General Assembly at its 320th

8. U.N. Document A/915 and Add. 1.

9. Debates and discussions leading to G.A. resolution 334 (IV) discussed in Chapter VI.

10. UNGAOR, Fourth Co. (5th Session), p. 258.

11. *Ibid.*, p. 250

12. U.N. Document A/C. 4/L. 115.

meeting of the same year. It received 41-0-8 votes.<sup>13</sup> The resolution was titled "The Development of Self-Government in Non-Self-Governing Territories." The resolution once again affirmed the provisions of resolution 222 (III). It mentioned the communication sent by the Netherlands Government dated June 20, 1950, in which it expressed the desire of stopping the transmission of information on Indonesia with the exception of West New Guinea, since Indonesia had attained full independence and was a member of the United Nations. This resolution recognized the independence of Indonesia and granted that the Netherlands was justified in not transmitting information on Indonesia. The provision which had significance with regard to non-self-governing territories in general, was the one which requested the Special Committee on Information "to examine such information as may be transmitted in future to the Secretary General in pursuance of the General Assembly resolution 222 (III) and to report thereon to the General Assembly."

Thus resolution 448 (V) further attempted to enhance the competence of the Committee on Information by giving it the power to "examine such information as may be transmitted in future to the Secretary General in pursuance of General Assembly resolution 222 (III)." The Committee was asked to report on it to the General Assembly. The Committee on Information was given the power of studying and examining information related to constitutional and political matters of the non-self-governing territories. It was further given the power to make recommendations and report to the Assembly regarding these territories. Therefore, the Committee was granted the right of expressing its opinion regarding the future status of these territories. The General Assembly decisions would evidently be influenced by the Committee's report. The resolution attempted to endow the General Assembly with the power of supervision, not only over economic, social and educational areas, but also on political matters, of the non-self-governing territories. The Assembly was to make the final decision regarding the status of these territories on the basis of the examination of facts made by the Committee on Information.

The adoption of these resolutions, therefore, implied that if the General Assembly was competent to judge the constitutional status of non-self-governing territories and pronounce the final verdict on

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13. UNGA Resolution 448 (V). Also UNGAOR Plenary Meetings (5th Session), p. 601.

them, it was also competent to consider and analyze political information on the territories concerned, since without information regarding the state of political progress the constitutional status could not be judged. The General Assembly resolutions which were adopted in order to stop cessation of the transmission of information on non-self-governing territories, indirectly attempted to increase the competence of the Committee on Information and the General Assembly in other areas. The framers of the United Nations Charter, however, had not foreseen the possibility of Article 73e of Chapter XI being interpreted in this way.

Certain specific cases of cessation of information came before the Assembly which further strengthened the contention of the members supporting the competence of the Committee and the Assembly on this particular question. The General Assembly's opinion was requested on certain specific cases. This resulted in the adoption of added resolutions, which provided specific rules with regard to the transmission and cessation of information.

#### **The Netherlands Antilles and Surinam**

In 1951 the Netherlands Government stopped transmitting information on the Netherlands Antilles and Surinam. The Netherlands claimed that these territories had been granted self-government in domestic matters under "interim regulations" approved in 1949 and 1950 by the Netherlands government and by the representative governments of the territories. According to the Netherlands Government, further transmission of information regarding these two territories would amount to a refusal to accept the degree of self-government which they had attained.

The representatives of Burma, Ceylon, Cuba, Egypt, India, the Philippines, Yugoslavia, the Union of Soviet Socialist Republics and others doubted the validity of this statement. These representatives argued against the cessation of the transmission of information on the Netherlands Antilles and Surinam, in the Fourth Committee as well as in the Assembly. A draft resolution related to this question, was proposed and adopted by the Assembly on January 18, 1952. This resolution 568 (VI) was titled "Cessation of the Transmission of Information Under Article 73e of the Charter in Respect of the Netherlands Antilles and Surinam." This resolution recalled that the Assembly had decided to appoint an *Ad Hoc* Committee on Factors. Furthermore, the

Netherlands Government had informed the Assembly that a conference of the representatives of the Netherlands, the Netherlands Antilles and Surinam would be held on an equal basis in March, 1952. This Committee's purpose would be, "to decide on a co-operative system for the common affairs of the three countries," and establish a new constitution "to replace the interim arrangement." In view of these factors the resolution recommended that the communication of the Netherlands government should be examined in 1952 by the Assembly, taking into account any new developments which might take place as a result of the conference between the Netherlands and its two dependencies. Communication of complete information by the Netherlands Government was appreciated by this resolution. This resolution said that the information given by the Netherlands Government on the status of the Netherlands Antilles and Surinam would be forwarded for consideration by the *Ad Hoc* Committee on Factors, established by resolution 567 (VI). This resolution further suggested that the final consideration of the question of the cessation of information should be deferred until the next regular session of the Assembly.

In 1952, Cuba, Denmark, India, the Philippines and the United States proposed a joint draft resolution.<sup>14</sup> This proposed that the information communicated by the Netherlands Government regarding the cessation of information on its two dependencies should be given to the *Ad Hoc* Committee on Factors established by resolution 567 (VI). This was adopted by the Fourth Committee with slight amendments.<sup>15</sup> The vote was 41-0-7.<sup>16</sup> This resolution was adopted by the Assembly at its 361st plenary meeting on January 18, 1952 without any discussion. The vote was 47-0-9. This was Assembly resolution 568(VII).<sup>17</sup>

In 1952, the Assembly, at its seventh session, decided to defer consideration of this issue until the following year.

In July, 1953, the previous communication<sup>18</sup> of the Netherlands government was referred to the *Ad Hoc* Committee on Factors by its representative. He presented it along with another new communication from his government which stressed that constitutional and

14. U.N. Document A/C. 4/L. 197.

15. *Ibid.*, A/C. 4/L. 198.

16. *Ibid.*, A/2057.

17. UNGA Resolution 650 (VIII), December 20, 1952.

18. U.N. Document A/AC. 67/3.



Security considerations made it impossible for the Netherlands government to continue transmitting information on the Netherlands Antilles and Surinam.<sup>19</sup>

The Netherlands representative expressed doubt in the *Ad Hoc* Committee on Factors that the question of cessation of information on the Netherlands Antilles and Surinam would be facilitated in this way. According to him, these two "territories had neither become independent nor were fully integrated within another state." He said that these territories had achieved complete self-government in their internal affairs and thus the only question to be determined was if this could constitute complete self-government. In addition, it needed to be determined whether these territories were fully responsible in the fields mentioned in Article 73e, as economic, social and educational conditions. The Netherlands representative expressed his government's inability to transmit information on the Netherlands Antilles and Surinam, since the adoption of a new constitution by the Netherlands had changed the status of these territories. He further argued that the Netherlands Government could not supply information on these two territories unless it received such information from them. According to him, the Netherlands Antilles and Surinam, however, considered it constitutionally incorrect to provide such information, since this action would reduce the degree of autonomy enjoyed by these territories.<sup>20</sup>

The representative of Burma, Cuba and Guatemala suggested that the question should be referred to the Assembly for consideration. Thus the *Ad Hoc* Committee on Factors referred it to the eighth session of the Assembly without making any recommendations.

This issue was discussed by the Fourth Committee at the eighth session of the Assembly. The Netherlands' representative recalled in the Fourth Committee the fact that the case of Netherlands Antilles and Surinam had been before the United Nations for three years. He also referred to the discussions and procedures followed by the Assembly on this question. This representative further expressed his inability to transmit any information on these two territories. He explained that the decision to stop transmitting information had not been arbitrarily made by the Netherlands

19. *Ibid.*, Also UNGAOR, Fourth Co. (8th Session), p. 178.

20. *Ibid.*, pp. 178-179.

but was the result of consultations between the Netherlands Government and those of the Netherlands Antilles and Surinam. Thus, according to his government, the conditions of Article 73e no longer applied to these two territories; however, the other provisions of Chapter XI still applied. He further said that since the texts of the Interim Orders of Government that were distributed to United Nations members showed that the Netherlands Antilles and Surinam were self-governing with respect to internal matters, "the Netherlands Government was not only legally relieved of the obligation to furnish information but was unable to do so."<sup>21</sup>

The Netherlands representative asked the Fourth Committee to confine itself to taking note of the condition outlined by him and to recognize that constitutional considerations justified the cessation of information on the part of his Government with regard to the Netherlands Antilles and Surinam. This representative further assured the Committee that as the result of negotiations which were still in progress among the three governments, a final constitution might be evolved and that, if this happened, the Netherlands' representative would again at that time bring complete details of this case before the General Assembly.<sup>22</sup> The representatives of Surinam and the Netherlands Antilles who were included in the Netherlands' delegation spoke in the same meeting of Fourth Committee and supported the position adopted by the Netherlands' representative. They argued that transmission of information on Surinam and the Netherlands Antilles by the metropolitan power would be "incompatible with the present constitution."<sup>23</sup>

The Swedish delegate said in the same Fourth Committee meeting that "since the constitutional status of Netherlands Antilles and Surinam was not yet final," and a final decision had to be made by the three governments concerned, he would like to introduce a draft resolution regarding the future of this case.<sup>24</sup> The Swedish draft resolution proposed that the United Nations should wait for the final result of the negotiations among the Netherlands, Surinam and the Netherlands Antilles. It should invite the government of the Netherlands to inform the Secretary General of the result of these negotiations. It further suggested that the Assembly should invite

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21. *Ibid.*, p. 179.

22. *Ibid.*, p. 181.

23. *Ibid.*, pp. 180-181.

24. U.N. Document A/C. 4/L. 292.

the Committee on Information to examine these communications in connection with information already transmitted and report to the General Assembly.

Some administering powers supported this proposal, but Guatemala, India and Yugoslavia promised to support this draft resolution only if it were amended. Many amendments were proposed and finally the draft resolution was adopted by the Fourth Committee, in a slightly amended form, by a vote of 30-13-9. Later, on November 27, 1953, the General Assembly adopted this resolution as reported by the Fourth Committee. The vote was 33-13-8. This was resolution 747 (VIII). It noted with satisfaction the progress made by the Netherlands Antilles and Surinam towards self-government. It said that the new status of these two territories could not be appraised until the negotiations led to a final result, which should be embodied in the constitutional provisions. It requested the Netherlands Government to keep the Secretary General informed of the result of these negotiations as well as the provisions which might result from these negotiations. It invited the Committee on Information to examine these and to report to the General Assembly. By this resolution, the Netherlands Government was requested to continue transmitting information on these two territories until the Assembly decided that the transmission of information on these territories should cease.<sup>25</sup>

The Netherlands Government, however, expressed its inability to abide by the majority opinion, since this would be contrary to its constitution and that of the Netherlands Antilles and Surinam.

This government discontinued transmission of information, but it kept the Assembly informed of the negotiations on final constitutional arrangements. These negotiations were finally concluded in 1954, and the Charter of the Kingdom of the Netherlands was ratified by the freely elected governments of the Netherlands, Surinam, and the Netherlands Antilles.

In March, 1955, the Netherlands representative communicated to the Fourth Committee, the Charter of the Kingdom of Netherlands promulgated on December 29, 1954. This was accompanied by a memorandum. The representative of the Netherlands told the Fourth Committee in 1955 that the Kingdom of the Netherlands was a unit composed of three equal partners. The word "Kingdom" did

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25. UNGA Resolution 747 (VIII), November 27, 1953.

not refer to the Kingdom of the Netherlands only, but it referred to a kingdom which was the symbol and expression of a common allegiance of three equal partners to one crown. The Queen of the Kingdom was not only queen of the part of Netherlands situated in Europe, but also queen of the two parts of the realm located on the American hemisphere.<sup>26</sup>

In November, 1955 the United States and Brazil introduced a joint resolution in the Fourth Committee.<sup>27</sup> The representatives thought that the autonomous position achieved by the peoples of Surinam and the Netherlands Antilles deserved to be recognized by the General Assembly.<sup>28</sup>

The Belgian representative argued in the Fourth Committee that the whole debate on the question of cessation of the transmission of information regarding Surinam and the Netherlands Antilles was superfluous. According to this delegate, the consideration of this issue by the Assembly was illogical. He felt that if these two territories were non-self-governing territories, only economic, social, and educational information on these territories should be supplied, but there was no need to transmit political information. However, this delegate argued that since the whole debate had hinged around political information, it was superfluous. Moreover, according to him, the people of Surinam and the Netherlands Antilles had freely chosen the form of their future association with the Netherlands on a basis of universal adult suffrage, and the parliamentary representatives elected on that issue had voted unanimously in favour of the Charter. He further argued that, therefore, according to the list of factors adopted by Assembly resolution 742 (VIII), the two territories "had freely exercised their right of self-determination in a most striking way."<sup>29</sup> Thus the Belgian delegate supported the Netherlands delegate and further emphasized the competence of the administering power to cease transmitting information whenever in its opinion the territory concerned had attained self-government. He rejected the view that the Assembly had the authority to give the final verdict regarding the status of a non-self-governing territory.

The representatives of the Soviet Union and India refused to

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26. U.N. Document A/AC. 35/L. 206.

27. U.N. Document A/C. 4/L. 421.

28. UNGAOR, Fourth Co. (10th Session), p. 290.

29. *Ibid.*, p. 305.

accept that the Netherlands Antilles and Surinam had attained complete self-government. According to them, though these territories had advanced in their internal affairs the "territories did not enjoy any independence or self-government, even with regard to internal affairs." The Indian delegate further felt that the Fourth Committee had not been able to analyze the situation by taking into account the factors listed in the annex to resolution 742 (VIII). According to this delegate, the association between the three governments was not equal; moreover, "there was no provision in the Kingdom Charter for the dissolution of the partnership."<sup>30</sup> These representatives affirmed the competence of the Fourth Committee and the Assembly to give decision regarding the cessation of the transmission of information and refused to accept the association between the Netherlands and its two dependencies. Since sufficient basis for the termination of the obligation accepted by the Netherlands regarding these non-self-governing territories did not exist.

The joint resolution was subsequently adopted by the Fourth Committee with some slight amendments by a vote of 18-10-27, on November 30, 1955.<sup>31</sup> The Assembly adopted this resolution on December 15, 1955 by a vote of 21-10-33.<sup>32</sup>

The Soviet Socialist Republics, other countries of the Soviet bloc, Liberia, Afghanistan and Belgium voted against this resolution. India, most of the other Afro-Asian countries and Arab countries, some Latin American countries, Greece, Great Britain Spain, and Australia abstained. The United States, Netherlands, France, Denmark, Sweden, Turkey, some Latin American countries and some Asian countries voted in favour. This was resolution 945 (X). This resolution drew attention to the communication of the Netherlands government dated March 30, 1955 addressed to the Secretary General. This resolution stated that taking into account the report of the Committee on Information prepared during the Assembly session of 1955 regarding the cessation of information on Surinam and Netherlands Antilles, the Assembly had decided that this cessation of the transmission of information was appropriate.

An analysis of the voting on resolution 945 (X) shows that

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30. *Ibid.*, pp. 307-309.

31. *Ibid.*, p. 329.

32. UNGAOR, Plenary Meetings (10th Session), p. 4 2.

both the Soviet Union and India refused to accept the two Netherlands territories as non-self-governing. Belgium, Australia, and the United Kingdom did not vote in favour of this resolution since they contested the Assembly's competence to give the final decision regarding the final status of a non-self-governing territory. The United States had contested the authority of the Assembly to give the final verdict on the status of a non-self-governing territory, but it desired that the Assembly should recognize the autonomy of these two territories and had co-sponsored the draft resolution and thus it voted in favour of the resolution.

### **Puerto Rico**

In 1953 another case of the cessation of information arose, and this, like the case of Surinam and the Netherlands Antilles, met with criticism from some members. Discussions were held in the Fourth Committee and the Assembly regarding the validity of the cessation of the transmission of information on Puerto Rico by the United States.

The cessation of information on Puerto Rico was contested by the representatives of Burma, Guatemala, Honduras, India, Indonesia, Mexico, the Ukrainian S.S.R., the Union of Soviet Socialist Republics, Yugoslavia and Czechoslovakia. These members questioned the validity of the process by which the association between the United States and Puerto Rico had been brought about. The representative from Honduras said that "there could be no association between States when the contract between them was not based on the principle of absolute equality of all States."<sup>33</sup>

The representatives of the Soviet Union and other countries of the Soviet bloc were the most critical. The Soviet delegate thought that the United States was maintaining a "colonial regime" in Puerto Rico and the "so-called constitution" did not change the situation at all. The delegates of Yugoslavia, Czechoslovakia and the Ukrainian Soviet Socialist Republic supported this view.<sup>34</sup>

The representatives of Brazil, Costa Rica, Canada, Chile, the Dominican Republic, Ecuador, Panama and others, however, supported the cessation of transmission of information on Puerto Rico by the United States. The Ecuadorian delegate stated that the association between Puerto Rico and the United States was based on

33. UNGAOR, Fourth Co. (8th Session), p. 239.

34. *Ibid.*, p. 224.

mutual consent.<sup>35</sup> The factors laid down by Assembly resolution 742 (VIII)<sup>36</sup> accepted the attainment of self-government through association with the metropolitan government as proper, if established on the basis of the right of self-determination of the dependent peoples.

The debates which ensued over the cessation of information on Puerto Rico reveal the diverse points of view prevailing among the United Nations members. According to the administering members, the extent of self-government acquired by a territory and the measures adopted by the administering power toward this goal were no concern of the United Nations.

The representatives of Burma, Guatemala, Honduras, India, Czechoslovakia, the Union of Soviet Socialist Republics and Yugoslavia argued that Article 73c should be read as a whole, and since sub-paragraphs a, b and c referred to political conditions there was no need to infer that the mere omission of the word "political" from Article 73c justified the interpretation given to it by the administering nations. These members believed that since the Assembly was authorized under Article 10 of the United Nations Charter to discuss any "questions or any matters within the scope of the present Charter" they felt that the Assembly was perfectly justified in discussing the political conditions of non-self-governing territories. Thus these members were not willing to let the United States cease the transmission of information on Puerto Rico without the case being discussed and examined by the Assembly.

The majority of members supported the contention that the Assembly and the Committee on Information had the power to set definite yardsticks for the guidance of administering members while their dependent territories progressed towards self-government. They insisted that the General Assembly should examine the constitutional status of the non-self-governing territory and decide if it qualified to be regarded as fully self-governing.

The Cuban delegate argued that the obligations ensuing from Chapter XI were binding, and no member could be released from these obligations without the consent of the majority of members.

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35. *Ibid.*, p. 229.

36. Resolution 742 (VIII) discussed in the Previous Chapter,

Therefore, an administering power's obligations regarding a particular non-self-governing territory also could not be dissolved without its being considered and approved by the Assembly.<sup>37</sup>

As the result of debates and discussions on the issue, the majority of members accepted the cessation of the transmission of information on Puerto Rico by the United States as justified. These members, however, wanted the Assembly to discuss and debate the circumstances leading to self-government before the Assembly pronounced its final decision.

The representative of the United States outlined the main events which preceded the decision of her government to cease transmitting information on Puerto Rico. She said that in 1948 the people of Puerto Rico held a national election in which they decided that Puerto Rico should become a Commonwealth associated with the United States. This status had been decided on by an overwhelming majority vote of the Puerto Rican people. Subsequently, to accept the will of the Puerto Rican people the United States Congress had adopted Public Law 600, which empowered the Puerto Rican people to draft and adopt their own Constitution. The new Constitution had been ratified by both the Puerto Rican people and the United States Congress.

The Resident Commissioner of Puerto Rico, who was also the alternate delegate of the United States, told the Fourth Committee that Puerto Rico was a free state whose authority emanated from the people of Puerto Rico. As a result of Puerto Rico being a Commonwealth associated with the United States the people of Puerto Rico had agreed that the exercise of certain aspects of political authority with corresponding responsibilities should remain with the United States Government. Puerto Rico was not a constitutional part of the Federal Union, but was associated with it by virtue of a bilateral compact. The specific terms of this association were embodied in the Puerto Rico Federal Relations Act: this was part of the contract and could be amended by mutual agreement between the people of Puerto Rico and the United States. He said that the citizens of Puerto Rico were citizens of the United States and as such were entitled to the privileges and immunities granted to the citizens of the United States. The Commonwealth of Puerto Rico exercised complete authority over its internal affairs; and Puerto

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37. UNGAOR, Fourth Co. (8th Session), p. 219.



Rico freely elected a Resident Commissioner to the United States, to represent Puerto Rico. This Resident Commissioner enjoyed the privileges of membership without vote in the House of Representatives of the United States Congress.

The Constitution of Puerto Rico could be amended only by the people of Puerto Rico. These amendments were not subject to subsequent approval by the United States Congress.<sup>38</sup>

The Indonesian delegate argued against the acceptance of Puerto Rico's autonomous association with the United States. He held that although Puerto Rico had made remarkable progress, an analysis of the position of Puerto Rico on the basis of factors enumerated in resolution 648 (VII) revealed that Puerto Rico could not be regarded as fully self-governing.<sup>39</sup>

However, the majority of members voted in favour of the cessation of information on Puerto Rico. The Ecuadorian delegate held in the Fourth Committee that according to the list of factors adopted by the Committee,<sup>40</sup> no international organization could modify the status of a people, which might be the result of voluntary agreement between the parties concerned. Since Puerto Rico had entered into a voluntary association with the United States it could not be regarded as a territory not enjoying complete self-government. Further transmission of information on Puerto Rico would imply its status of dependence on the United States.<sup>41</sup>

At the 1953 plenary session of the General Assembly the members in favour of the cessation of the transmission of information on Puerto Rico by the United States Government held that Puerto Rico had reached a state of development set for all non-self-governing territories, and the transmission of information on it would be a refusal to accept its autonomy.<sup>42</sup> Therefore, the Assembly decided by resolution 748 (VIII) to endorse the cessation of information on Puerto Rico by the United States. This resolution was adopted by a vote of 26-16-18. It purported to establish the competence of the Assembly to decide whether or not a territory was

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38. *Ibid.*, pp. 225-226.

39. *Ibid.*, p. 240.

40. U.N. Document A/C. 4/L. 279.

41. UNGAOR, Fourth Co. (8th Session), p. 232.

42. UNGAOR, Plenary Meetings (8th Session), p. 320.

**non-self-governing.** The resolution further accepted the constitutional status of Puerto Rico as having been established by democratic means.

An analysis of the voting on this resolution shows that the United States was the only administering power which voted in favour of this resolution. The other administering powers either voted against the resolution or abstained. This was due to their refusal to accept the Assembly's competence to give the final decision regarding the status of a non-self-governing territory. The United States voted in favour because the Assembly had agreed to accept its recommendation regarding the constitutional status of Puerto Rico. However, the United States delegate emphasized the fact that :

“the role of the General Assembly is limited by the Charter provisions to discussion, expression of views and recommendations. The decision as to whether a territory has ceased to be non-self-governing is one which in the last analysis can only be made by the administering power.”<sup>43</sup>

India, the Soviet Union, other countries of the Soviet bloc and others voted against this resolution. According to them, the constitutional status of Puerto Rico could not be considered such as to keep it outside the scope of Article 73e.

### **Greenland**

As required by Assembly resolution 222 (III), the Government of Denmark transmitted to the Secretary General a communication in 1950, and then again on September 3, 1953,<sup>44</sup> in which it expressed its desire to cease transmission of information on Greenland. It informed the Secretary General of the constitutional development due to the adoption of the Danish constitution of June 5, 1953. Since these constitutional changes had been discussed and unanimously adopted by the Greenland Council, the Danish Government felt justified in stopping the transmission of information on Greenland. A few days later, in another communication, Denmark explained to the Secretary General that as a result of the adoption of the Danish constitution on June 5, 1953, Greenland had become

43. *Ibid.*, p. 320.

44. U.N. Document A/AC. 35/L. 155 and Corr. 1.

“an integral part of the Danish realm” and thus there was no longer any necessity for Denmark to be a member of the Committee on Information since it was no longer an administering member. Denmark wished to withdraw from the Committee.

Although the communication regarding Denmark's desire to cease transmitting information on Greenland had been before the Committee on Information since 1950, it was not until 1954 that any discussions were held on this question either in the Fourth Committee or the Assembly. The reason for this is not known.

The representative of India suggested in the Committee on Information that “in a similar manner, as a parliamentary mission usually visits a United Kingdom territory on its attainment of self-government, the United Nations might send a mission to visit any territory about to achieve self-government”...and that... he “would be glad to learn the reaction of the Danish delegation to this suggestion.”<sup>45</sup> The Danish delegate did not accept the suggestion as feasible. He said that enough information had been submitted on Greenland, and though visitors would be welcome in Greenland, “a United Nations mission might be misunderstood by the Greenlanders.” He, therefore, asked the Indian representative not to insist on it.<sup>46</sup>

A draft resolution was proposed by Brazil, Guatemala and India<sup>47</sup> which commended the action of the Danish Government and recommended, on the basis of documentation submitted by this government, that it should be allowed to stop transmitting information on Greenland, since “Greenland has freely decided on its integration within the Kingdom of Denmark, on an equal constitutional and administrative basis with the other parts of the Kingdom.”<sup>48</sup>

When the case came up in the General Assembly for debate, it was fully agreed in 1954 that Greenland had attained self-government and that the cessation of the transmission of information on the part of Denmark was justified. The General Assembly adopted a resolution which further endorsed it.

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45. UNGAOR, Supplement No. 18 (9th Session), pp. 6-7.

46. *Ibid.*, p. 7.

47. U.N. Document A/AC. 35/L. 183. Also, UNGAOR, Supplement No. 18 (9th Session), p. 8.

48. U.N. Document A/AC. 35/L. 183.

. It was adopted by 45-1-11 votes. Only Belgium cast a negative vote. The United Kingdom, the Union of South Africa, New Zealand, the Netherlands, France, Canada, Australia and others abstained since they doubted the competence of the Committee and the Assembly to pass the final verdict on the constitutional status of a particular territory. The United States, along with the Soviet Union and other countries of the Soviet bloc, India, Norway and the Philippines voted in favour.<sup>49</sup>

This resolution expressed the opinion that from the documentation and explanations provided by the Danish government it was evident that Greenland had freely decided to integrate with the Kingdom of Denmark. The status of Greenland was equal to the other parts of Denmark both constitutionally and administratively. The resolution unconditionally accepted the decision of the Danish government with regard to Greenland.<sup>50</sup>

#### **Alaska and Hawaii**

The United States government informed the Secretary General, in two communications dated June 2, and September 17, 1959, of the changes in the constitutional status of Alaska and Hawaii. As a result of these changes Alaska and Hawaii were to become the forty-ninth and fiftieth states of the Union, respectively. The United States government informed the Secretary General that the transmission of information on these territories would cease as a result of these changes in their constitutional status.<sup>51</sup>

Debates were held in the Fourth Committee and the Assembly regarding the cessation of the transmission of information on these two territories by the government of the United States. Finally at the Fourth Committee meeting of 1959 a draft resolution was introduced by the delegations of Argentina, Canada, the Federation of Malaya, Honduras, Iraq, Japan, Liberia, Nepal and Sweden.<sup>52</sup> This draft resolution proposed that the Assembly should :

Take note of the opinion of the United States government that the people of Alaska and Hawaii had effectively exercised their right of self-determination and

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49. UNGAOR, Plenary Meetings (9th Session), p. 307.

50. UNGA Resolution 849 (IX).

51. U.N. Document A/4115 (Alaska). U.N. Document A/4226 (Hawaii). Also, UNGAOR, Fourth Co. (14th Session), p. 512.

chosen their new status freely ; congratulate the United States and the people of Alaska and Hawaii ; consider that the Declaration regarding non-self-governing territories and the provisions established under it in Chapter XI of the Charter could no longer be applied to Alaska and Hawaii ; consider it appropriate that the transmission of information in respect of Alaska and Hawaii should cease.

Liberia proposed at the same Fourth Committee meeting an amendment to the draft resolution regarding Alaska and Hawaii. The Liberian amendment recommended "the addition of a new paragraph to the preamble of the text affirming, in effect, the Assembly's competence to decide whether a non-self-governing territory had or had not attained the full measure of self-government referred to in Chapter XI of the Charter."<sup>53</sup>

The representatives of Australia, New Zealand, the United Kingdom, the United States and others expressed their inability to support the proposed amendment. According to them, the resolution affirmed the competence of the Assembly in an area where it clearly was not competent. The Australian representative argued in the Fourth Committee of 1959 that even if they accepted the competence of the General Assembly to make a decision in this particular case, it would be impossible to accept the contention that the Assembly had the competence to annul what the people of Alaska and Hawaii had decided. In other words, he held that there was no use to ask the Assembly to make the final pronouncement since it could not change the present status of Alaska and Hawaii. According to these powers, the cases had come before the Assembly only for the recognition of the facts which were presented by the administering power concerned.<sup>54</sup> However, the representatives of Ceylon, Ethiopia, Guinea, Haiti, Indonesia, Iraq, the Federation of Malaya, Mexico, the United Arab Republic and Venezuela regarded the amendment as necessary. They brought to the attention of the members of the Fourth Committee the fact that "identical paragraphs had been

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52. U.N. Document A/C. 4/L. 632. Also UNGAOR, Fourth Co. 14th Session), p. 600.

53. U.N. Document A/C. 4/L. 633.

54. UNGAOR, Fourth Co. (14th Session), p. 602.

included in resolutions adopted by the Assembly in the past in regard to the cessation of the transmission of information in respect to Puerto Rico and Greenland."

The amendment was approved by the Fourth Committee on December 3, 1959, by a vote of 41-20-9. The amended draft resolution was then approved by a vote of 52-0-19. Finally, this resolution was adopted on December 12, 1959, at the plenary session of the Assembly by 58-0-17 votes.

All the administering powers had voted against the Liberian Amendment. This showed their reluctance to accept the competence of the Committee to give final judgment on the constitutional status of a particular territory. This point of view can be attributed to all the administering powers without exception. The United States delegate had reflected the same opinion while explaining his vote on Assembly resolution 748 (VIII) regarding Puerto Rico.

The Liberian amendment was accepted by the Committee and it, in effect, attempted to enhance the competence of the Assembly in areas forbidden to it. Each of the cases of the cessation of the transmission of information which were communicated to the United Nations has tended to increase the competence of the Committee on Information and the General Assembly in relation to non-self-governing territories. More than once the competence of these bodies has been questioned, and the attempt of some members to strengthen the competence of these bodies has been accepted by the administering members with due limitations.

The conservative and the liberal group of powers were still divided on the question of a body or organ which could decide whether or not a territory was fully self-governing.

#### **Procedure for the Examination of Communications Regarding Cessation of Information**

In 1954, the representatives of Greece, Indonesia, Lebanon, the Philippines, Saudi Arabia and Syria felt that the way in which communications relating to the cessation of the transmission of information might best be examined should be established by the Assembly. Subsequently, this question was introduced in the form of a resolution sponsored by these members.<sup>55</sup> The draft proposed that such communications should be examined with emphasis on the

way in which the right of self-determination had been attained and exercised. This proposal asked the Committee on Information to examine several points mentioned in this resolution and to make recommendations to the General Assembly's 1955 session. The draft proposal was debated in the Fourth Committee, and a number of amendments were accepted. The most important of these amendments was introduced by Yugoslavia. This proposed that on receipt of a communication proposing the cessation of information on a certain territory by the administering power concerned, the Assembly should express the necessity of sending a visiting mission to the territory in order to evaluate the opinion of the population regarding any change in their status. It further said that this visiting mission should tour the territory before or during the time that the people were asked to decide on its future status. However, the amendment said that the visiting mission would be sent only if the Assembly thought it necessary to do so.<sup>56</sup>

The joint draft was adopted by the Fourth Committee in its amended form, by 37-11-4 votes. It was opposed by all the administering members. The Assembly adopted it by a vote of 40-12-3.<sup>57</sup>

This was resolution 850 (IX). It referred to the resolutions adopted by the Assembly in 1953 and 1954 relating to the cessation of the transmission of information concerning Puerto Rico and Greenland respectively. It said that the experience gained by the Assembly should be utilized to perfect the procedure to be followed in such cases. According to this resolution, it was necessary to lay down procedures so that the Committee on Information could properly discharge its functions as mentioned in Assembly resolution 742 (VIII). It stated that for this purpose it was necessary that the communications received from the members concerned regarding the cessation of the transmission of information should be examined, with special emphasis on the manner in which the right of self-determination had been freely exercised. The resolution further stated that if the Assembly considered it necessary, a mission could be sent to evaluate the opinion of the population of the territory regarding the change in its status. This visiting mission should be

55. U.N. Document A/C. 4/L. 356.

56. *Ibid.*, A/C. 4/L. 359.

57. UNGAOR, Plenary Meetings (9th Session), p. 307.

arranged in consultation with the administering member and should visit the territory either during or before the time the population is called upon to give its opinion on the future status of the territory.

The Committee on Information was recommended to study the methods by which it could draw the attention of the Assembly to the forthcoming changes in the status of a particular territory at the appropriate time.

The adoption of this resolution by the Assembly was certainly an attempt to increase its competence. It tried to grant the Assembly the power to examine the methods by which a non-self-governing territory became fully self-governing. This was a step in the direction of assimilation between the two categories of territories, namely the non-self-governing territories and the Trust Territories. The Assembly was given the power to examine not only the validity of the claim of the administering power that a particular territory had attained the full measure of self-government on the basis of the documentation provided by such a power in accordance with the previous resolutions adopted by the Assembly, but also the procedure adopted to bestow self-government on the non-self-governing territory concerned. Attempts were made to grant the Assembly partial powers of supervision over the constitutional acts of administering members, since there were certain limitations on this power.

The Committee on Information was requested to make a further study of the subject and make recommendations regarding methods necessary to implement this resolution. It was also requested to draw the attention of the Assembly to a territory at the time when changes in its constitutional status were expected to take place. This amounted to an attempt at endowing the Committee on Information with the power of observing the political conditions of a territory and reporting it to the Assembly.

In 1955, the General Assembly referred to the Committee on Information a draft resolution proposed by Iraq. This proposed that the communications sent by the administering members regarding cessation of information should be considered by the Assembly itself, with special emphasis on the manner in which the right of



self-determination had been exercised by the people of these territories. It said that the Assembly should decide in each individual case how the information should be examined to determine the status of the territory.<sup>58</sup>

This draft resolution was discussed by the Committee on Information in 1956. The members arguing in its favour felt that the Assembly would be the most competent organ to consider the status of a territory since the Committee on Information should not take the initial step in questions involving political judgments.<sup>59</sup>

In contrast to this, the members who were opposed to a change in the previous procedure argued that the exclusion of the Committee on Information from considering the final status of a territory would not be in the interests of the inhabitants of that territory.

At its eleventh session the Fourth Committee accepted a draft resolution introduced by the Iraqi delegate, similar to the one proposed by him in 1955. This was approved at the plenary meeting of the Assembly on February 20, 1957, by 48-15-7 votes,<sup>60</sup> as resolution 1051 (XI). This resolution was titled: Procedures for the Consideration of Communications Relating to the Cessation of the Transmission of Information under Article 73c of the Charter. It recommended that the Assembly should examine cases of cessation of information with a particular emphasis on the manner in which the right of self-determination has been attained and exercised. The General Assembly should adopt conclusions according to the circumstances that might arise. Certain points might be referred to the Committee on Information or any other committee for further study. The Assembly was free to take any other necessary measures to reach conclusions which would be in the interests of the inhabitants of the territory.<sup>61</sup>

The adoption of this resolution further perfected the procedure regarding the question of cessation of information. It attempted to establish a more rigid supervision by the Assembly regarding cases of cessation of information, and establish a uniform procedure to be followed by all the administering powers.

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58. U.N. Document, A/C. 4/L. 460.

59. UNGAOR, Fourth Co. (11th Session), pp. 324-325.

60. UNGAOR, Plenary Meetings (11th Session), p. 1178.

61. UNGA Resolution 1051 (XI) February 20, 1957.

The question of cessation of the transmission of information had two sides : one, the transmission of information and the other, cessation of the transmission of information. In other words, the question of putting the territories on or off the list of non-self-governing territories. Transmission of information on territories signified the status of dependence of these territories on the reporting power. Dispute arose regarding certain territories listed as non-self-governing by the administering members. Indonesia, Greece, Argentina, Guatemala and others claimed these to be independent and integral parts of their territories. Such disputed territories were Aden, Dutch New Guinea, British Honduras, Falkland Islands, Cyprus, and others.

This survey of the different approaches taken by the members on the question of transmission of information on non-self-governing territories and the cessation of such information, has revealed their general attitude towards Chapter XI and especially Article 73e. The administering powers were reluctant to attribute any other meaning to Article 73e of Chapter XI except the one which could be inferred by reading the provisions of this particular Article. Belgium, France and the United Kingdom were convinced that if they accepted the Assembly's right to determine the constitutional position of a particular territory under their sovereignty it would amount to the acceptance of international supervision. Furthermore, if the Assembly should be granted the right to pronounce on the basis of documentation supplied by the administering powers whether or not the cessation of information on a particular territory was justified, it would amount to accepting the United Nations interference in their domestic affairs and its right to question their constitutional acts. Moreover, according to these powers, for the Assembly to make the final decision on a country's constitutional status it was necessary that it should be well acquainted with the political conditions of the country concerned.

Some states were agreed that the Assembly or the Committee on Information had no right to receive or discuss political information as there was no mention of this in Article 73e. Belgium, France and the United Kingdom supported this point of view, while the United States, Denmark, the Netherlands and others felt that though the administering powers could not be compelled to transmit political information, it could be voluntarily transmitted. In such cases

these members saw no harm in this information being received and considered by the Committee on Information and the Assembly. However, all the administering powers held that the administering power was the only proper authority to make a decision on the political condition of a particular territory under its sovereignty. According to them, when a non-self-governing territory was ready for self-government, the administering power concerned was perfectly justified in granting self-government to the territory and cease transmitting information on it. They felt that the United Nations could do no more than formally accept this decision.

The majority of members, however, were determined to give Chapter XI as broad an interpretation as possible. To them the very inclusion of Article 73e in Chapter XI implied the acceptance of international supervision. They insisted that Chapter XI should be read as a whole and thus if Article 73e was read along with subparagraph "a" and "b" of the same article it would be clear that the development of self-government was the ultimate goal of the Chapter. This self-government could be established under the auspices of the United Nations, and thus the United Nations was perfectly justified in giving decisions on the transmission and cessation of information on the non-self-governing territories. The Soviet Union, other countries of the Soviet bloc, India, Philippines, Cuba and some others advocated this view. They further believed that the General Assembly resolution 66 (I) enumerated and endorsed the list of non-self-governing territories. Once this was done the question was relegated to the position of an international problem, and according to them, no unilateral decisions could be taken to delete any territory from this particular list.

Radically different points of view were advocated by the two groups of members. But a few administering powers like the United States and Denmark took a moderate view of the contested issue. According to these members, the United Nations had the competence to lay down the general principle on this issue for the guidance of the administering powers, but the administering powers were the only competent authorities to apply the principle to particular cases and make decisions regarding transmission and cessation of information on non-self-governing territories. However, the General Assembly resolutions were attempts to establish the Assembly's competence much beyond the desire of these powers.

Ultimately a compromise was struck between the opposite group of members. The Assembly decisions succeeded in establishing a limited supervision by the United Nations over the non-self-governing territories. The Assembly was authorized to receive information from the administering power prior to the cessation of information on a particular territory, and on the basis of this information the Assembly could give its opinion regarding the final status of the territory in question, and also decide whether or not the cessation of information was justified. Indirectly this conferred on the Assembly and the Committee on Information the power to receive political information, since the constitutional position of a territory could not be examined without adequate knowledge of its political condition. This narrowing of the gap between the two different systems provided for the non-self-governing territories and the Trusteeship Territories was the result of co-operation between the two opposing groups of power. The important points of difference between these two systems had been partially obliterated by the Assembly decisions. By accepting the General Assembly resolutions on the issues of transmission and cessation of information on non-self-governing territories the administering members had accepted that their method of fulfilling the responsibility towards non-self-governing territories could be examined by the Assembly. At the San Francisco Conference these administering powers had resolutely opposed the acceptance of such authority being granted to the United Nations, but later developments changed their attitude. The members were keen on working together on this particular point. They had created the Committee on Information for implementing the provisions of Chapter XI of the Charter. Both the conservative and the liberal groups steered slowly and carefully. They had the desire for each other's co-operation. Owing to the tacit consent of certain administering members and the voting power of the majority of the United Nations members, the question of cessation of information succeeded in narrowing the gap between the two systems provided under Chapter XI and Chapters XII and XIII of the Charter.

There is still a difference between the complete international supervision of the Trusteeship Territories provided for by the Charter and that of the non-self-governing territories created by the Assembly decisions. But the fact is, that partial international

supervision and accountability have been accepted over non-self-governing territories. Britain, France and Belgium were critical of international accountability and supervision of non-self-governing territories, and stubbornly resisted the attempts to establish it at San Francisco. Even later these powers retained the same attitude. Ultimately however, these powers had to accept the Assembly decisions in this direction.

## CHAPTER VIII

### CONCLUSION

In practice Chapter XI of the United Nations Charter has grown and been adapted to the demands of the United Nations members, as well as to the changing times and circumstances. This broad interpretation given to Chapter XI by the General Assembly resolutions brings it much closer to the Trusteeship System.

Two separate systems had been created by the framers of the United Nations Charter. However, from the outset there has been pressure in the United Nations to give a broad interpretation to the provisions of Chapter XI. In the initial stages of the United Nations existence this was the demand of the group of members which favoured a liberal interpretation of Chapter XI, referred to in this study as the liberal group of members. Subsequently, this became the attitude of the majority, and there was a shift in the position of both the liberal and the conservative groups. Instead of advocating the complete obliteration of the distinction between Chapters XI, XII and XIII, the liberal group asked for some elaboration of the provisions of Chapter XI. This, however, brought it closer to Chapters XII and XIII. The majority of the conservative group also showed liberal trends. They abandoned their efforts of making a strict interpretation of the Chapter by quoting the "letter" of the Charter. Both sides presented compromise proposals whenever either of the two adopted an extreme stand and thus through the co-operation of these two groups the process of change continued. However, these changes which were the result of a series of Assembly resolutions were not in the form of legal amendments.

The establishment of the Committee on Information was not provided for in the Charter. In 1946 some members considered that its creation would amount to a violation of the Charter. This opposition gradually weakened. Certain proposals for the continuation of the Committee were introduced by the United States. This government ultimately regarded the Committee as a useful forum for the exchange of views between the United Nations members. The representatives of France and the United Kingdom, however,

doubted the utility of this Committee. According to them, since it was a procedural body, once its procedural functions were completed there was no need for its extension. The Belgian government thought that the existence of the Committee was illegal. Moreover, the continued attempts of some members to grant a broad meaning to Chapter XI and the Assembly decisions which attempted to accept their demand prompted Belgium to discontinue attending the Committee from 1952 onwards.

The group of powers favouring a liberal interpretation of Chapter XI were demanding a permanent status for the Committee as early as 1947. India and some Latin American, Asian, African and Arab countries supported this proposal. However, it is interesting to note the attitude adopted by India on this question in later years, since in 1947 it was one of the chief advocates of a permanent tenure for the Committee. In face of opposition from the conservative group regarding this question, India constantly tried to modify the extreme proposals presented by the liberal group. This member constantly strived to strike a compromise on this question and thus save the Committee's life. After 1952, India was no longer the strong proponent of the powers demanding a permanent tenure for the Committee.

In 1952 the United Kingdom and France had threatened to withdraw from the Committee if it was granted a permanent status. By 1955, the United Kingdom regarded the Committee as superfluous and an unnecessary expense, and again threatened to withdraw from the Committee if it was given a permanent tenure.

The United States was completely in favour of the extension of the Committee in 1955. This had been its attitude since 1949, when it supported the Committee's extension for another three years.

In 1955 the resolution proposing the continuation of the Committee for another three years was favoured by all the administering members except the United Kingdom and Belgium.

In 1958, there was hardly any criticism against the continuation of the Committee. This might have been due to the realization that colonialism was almost dead and thus the continued existence of the Committee no longer roused any vehement opposition. However, in 1958, the United Kingdom and France opposed the resolution which proposed the Committee's

extension, and Australia abstained. Their attitude was a protest against the unconstitutional existence and continuation of the Committee. Most probably, besides the disapproval of the Committee which they had expressed before, their position was the product of their reluctance to accept the Committee's increased competence. However, the change apparent in the attitude of the majority of administering members towards this implementing body since 1947 implies a tacit consent to accept its existence as essential.

Gradually the powers of the Committee were increased. It was established for the purpose of performing procedural functions. Subsequent resolutions of the Assembly attempted to increase its competence and grant it the power of making substantive recommendations. By resolution 146 (II) the substantive recommendations were limited to matters dealing with economic, social and educational matters. Later the other resolutions relating to the question of cessation of information attempted to further enhance the Committee's competence. Indirectly these resolutions attempted to grant the Committee the power to receive, discuss and analyze political and constitutional information. Moreover, the Committee's competence was increased, since the draft resolutions proposed for adoption by the Assembly came to the Committee in their initial stages, and the Assembly acted on the recommendations of the Committee. Therefore, resolution 222 (III) certainly gave the Committee the power to receive, consider, discuss, analyze and make recommendations regarding political questions. The determination of the final status of a non-self-governing territory was made by the administering power. However, the Assembly purported to assume the role of assisting them in making these decisions, as was evident from the specific cases considered by the Assembly.

The Committee was not empowered to deal with political information, since the transmission of such information was voluntary. But in certain cases such information was voluntarily submitted, as was done by five out of ten administering powers, if Spain and Portugal are included. The Committee was free to consider it, but political information was never discussed up to the year 1959 except in these cases. Moreover, the Committee was not authorized to make recommendations regarding political issues related to a particular territory.

The Committee on Information which is similar in composition



to the Trusteeship Council, differs from it in several ways. The Trusteeship Council is a permanent body directly responsible to the Assembly, while the Committee on Information is responsible to the Fourth Committee and through it to the Assembly. Both these bodies consider reports submitted by the administering members regarding the territories under their administration. However, the Committee on Information does not directly receive these reports. The reports considered by the Trusteeship Council necessarily include political information while the transmission of political information on non-self-governing territories is not obligatory.

The Committee on Information was asked by Assembly resolutions to decide which territories could be regarded as self-governing. The delegation of this power to the Committee by the Assembly and its attempt to define non-self-governing territories met with some disapproval. No exact definition of self-government could be decided by the Assembly and the organs appointed by it for the purpose. Yet a list of factors was prepared which would act as guides in determining the status of a territory. The administering powers could determine the constitutional status of a territory under their sovereignty, but the Assembly attempted to assume the right to assist and approve of this decision. This was done in the cases brought before it for consideration. The list of factors underwent periodic changes. Resolution 567 (VI) enumerated the factors to be applied and resolutions 648 (VII) and 742 (VIII) somewhat modified the list of factors. The enumeration of factors and their further study and analysis certainly was an attempt to enhance the United Nations supervision over non-self-governing territories.

The minority opposition to these resolutions could not persist. The process of assimilation initiated by the creation of the Committee on Information, left little choice for the opposing minority, but either to co-operate in this process of assimilation or to slow it down by their non-co-operation. This group of members, however, were not willing to be ostracized as non-co-operative, and thus had to accept the Assembly decisions. This opposing group consisted of Belgium and France invariably, and sometimes the United Kingdom. The Assembly's consideration of the territories which should come under provisions of Chapter XI, in a sense carried the provisions of this Chapter farther than was allowed by Article 79 regarding Trusteeship Territories.

Resolution 1467 (XIV) passed in connection with the question of Portuguese territories was in fact an attempt to enhance the competence of the Committee and the Assembly still further. It purported to give these bodies the power to determine whether or not certain territories came within the scope of Chapter XI. Thus, it was an attempt to challenge the decision of an administering power regarding its territories. The list of non-self-governing territories had been voluntarily submitted and endorsed by the Assembly. But its attempt since 1951 to define non-self-governing territories and the resolution attempting to authorize the Assembly to conduct an investigation regarding the status of certain territories certainly amounted to the assertion of power not granted by the provisions of the Charter. This seems to be an attempt at asserting increased competence by the Committee and the Assembly. Article 79, which deals with the Trusteeship System, specifically states that the terms of trusteeship for each Trust Territory as well as "the fact of a particular territory being designated as trust territory are to be agreed upon by the states directly concerned." Thus no provision is made for forcing members to put their territories under Trusteeship.<sup>1</sup> In this respect the Assembly resolutions have attempted to carry the provisions of Chapter XI farther than could be done with Trusteeship Territories. This was possible due to the ambiguity of the provisions of Chapter XI.

Article 87 empowers the Trusteeship Council to accept petitions and examine them in consultation with the administering authority. It further authorized this body to send periodic visiting missions to the Trust Territories at times jointly decided by the Trusteeship Council and the administering authority. India, Ghana, Liberia, Egypt, Poland, the Soviet Union and some other members tried to establish the right of petition and the sending of visiting missions to non-self-governing territories. They failed in this attempt. Resolution 850 (IX) which was passed in connection with the question of cessation of information only gave partial recognition to the concept of visiting missions. The resolution mentioned the prior consent of the administering members as essential before the visiting mission could be sent, and thus further qualified the right of sending visiting missions to non-self-governing territories. However, this was an attempt to give a broad interpretation to the provisions of Chapter XI.

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1. Leland M. Goodrich and Edvard Hambro, *Charter of the United Nations—Commentary and Documents*, p. 240.

The adoption of the Standard Form amounted to the drawing up of a detailed outline for the guidance of members. Its purpose was to bring uniformity in the reports submitted by the administering members. It was revised and adapted to the changing conditions. It can be concluded that its adoption and subsequent revisions signified that the Assembly expected the administering members to follow it. However, this Standard Form differed from the Questionnaire provided for Trusteeship Territories. Political information constituted the voluntary category of this form. Moreover, the adherence to this form was not obligatory on the administering powers. However, resolution 142 (II) requested such adherence. Thus this resolution left very little choice for the administering members since non-adherence would imply non-co-operation with the United Nations and very few administering members preferred to be put in this category. The purpose of both the Standard Form and the Questionnaire is to judge the degree of progress achieved by these dependencies. Thus the adoption of a Standard Form for the transmission of information on non-self-governing territories helped in bridging the gap between the non-self-governing territories and the Trusteeship Territories.

It can therefore, be concluded that the Assembly resolutions have made the application of the provisions of Chapter XI very much like those of Chapters XII and XIII. This is the product of a gradual process of development brought about by the pressure of majority opinion in the General Assembly and its subsidiary bodies.

This development was made possible because the administering members as a bloc did not demand strict adherence to the provisions of Chapter XI, and the liberal bloc toned down its extreme stand on many issues related to the provisions of Chapter XI. The acrimonious debates of the initial years of the United Nations existence subsided in the later years and a definite merging of the two groups of opinions is evident. The United States which was one of the sponsors of the United Nations and an important administering member played an active role in introducing many proposals which extended the competence of the Committee. However, the United States, like the other administering powers, denied the existence of any obligations on the part of the administering members regarding their non-self-governing territories. Furthermore, it felt that the Assembly's attempts at elaborating the meaning of Chapter XI were laudable only as guides to the understanding of its ambiguities. But the United States

maintained that the administering members were the final judges of the issues related to their non-self-governing territories. In spite of these views the United States invariably took a moderate view on these issues.

Though India aligned with the group of members supporting a liberal interpretation and sometimes demanded extreme changes in the provisions of Chapter XI, this study reveals a great deal of similarity in the positions of India and the United States, as far as their role in presenting compromise proposals was concerned. An overall consideration of India's position in the General Assembly debates and in the discussions of its subsidiary bodies qualifies India to be placed in a group of moderators together with the United States. The difficulty of putting these two members in either the liberal or the conservative group is evident from this study. The position of these powers was unique on more than one proposal, which purported to elaborate the ambiguous provisions of Chapter XI. India's position on the transmission of political information shows some inconsistency, but its attitude regarding the list of factors and other issues bears testimony to its moderate stand. The difference between India's attitude and the attitude of those in the group which presented extreme proposals cannot be ignored.

India's moderate position, however, was prompted by different reasons from that of the United States. India is an important member of the Afro-Asian bloc, it has always been in the forefront of anti-colonialism. Majority of the General Assembly resolutions which have contributed to expediting the de-colonization process have been proposed by India along with other Afro-Asian countries. However, in certain cases India has modified extreme proposals put forward by some African and Soviet bloc countries and made them moderate. This seems to be due to India's desire to see the proposals through. India has always tried to feel the pulse of the majority of the United Nations members. The newly independent African states have been over-enthusiastic and this has often resulted in their overlooking the realities of international diplomacy. Since India was not directly involved in the fate of non-self-governing territories, its comparatively objective position seems to be natural. The Afro-Asian bloc has benefited from India's position, because its moderate stand has helped in making their efforts of elaborating the provisions of Chapter XI of the United Nations Charter more acceptable to the administering members.

As for the United States role, the United States had determined to be a world leader in establishing a peace which would last, and had recognized the importance of expediting the decolonization of non-self-governing territories for the purpose of establishing world peace. Even at the time of drafting of the United Nations Charter the United States statesmen had emphasized the necessity of encouraging the non-self-governing territories to become independent. Thus, the United States was morally as well as from tactical point of view committed to support the non-self-governing territories in their demand for self-government. However, actions in the United Nations have frequently put the United States in a difficult dilemma : if the United States were to support the non-administering members, it would displease the administering members, several of which are significant allies of the United States. Consequently, the United States has adopted a neutral role to avoid this dilemma, and thus, it has abstained on many colonial issues. Besides abstentions, the United States has tried to introduce moderate proposals, which were likely to be accepted by both colonial and anti-colonial group of members. Thus the moderate attitude of the United States seems to be the result of its desire to appear as a "progressive" administering power, as well as of its search for an acceptable middle way, which would be favoured both by its allies and the anti-colonial group of members.

This study reveals the efforts of the Soviet Union, Poland and some other countries of the Soviet bloc to establish maximum international supervision and accountability over non-self-governing territories and thus create a duplicate Trusteeship System. Their position regarding the creation of the Committee and their insistence on granting it a permanent tenure show this. Moreover, the Soviet criticism of factors, especially of those listed under the attainment of self-government through association with the metropolitan country, and its insistence on independence as the ultimate and only goal of Chapter XI strengthens this argument. The Soviet Union constantly maintained that the administering members were obliged to transmit political information and demanded that this information should be placed under the obligatory category of information listed in the Standard Form. The initial proposals for establishing the United Nations right to send visiting missions and that of hearing petitions from non-self-governing territories were presented by the Soviet Union as early as 1947. These proposals were rejected, and thus

show that the Soviet Union desired more radical changes in the provisions of Chapter XI than were demanded by the majority of United Nations members. The Soviet position may have been prompted by its desire to embarrass the administering members and also to gain the sympathy of the newly independent nations. However, the Soviet stand had important consequences, the liberal bloc could always count on the Soviet Union and other countries of the Soviet bloc as important allies. The votes of these countries helped the liberal group to obtain favourable Assembly decisions. Besides this, the extreme proposals made by the Soviet Union encouraged the liberal group to present alternate proposals, more extreme in form than this group had previously contemplated.

However, the development of more extreme position on both anti-colonial and colonial sides has constricted the possibilities of agreement. Thus, the of the Union of Soviet Socialist Republics conduct can be called "obstructive" to a certain extent. The members who desired to change the condition of non-self-governing territories had either to go along with the extreme Soviet proposals or to introduce alternate proposals which would be acceptable to the majority.

The Soviet position has sometimes forced the colonial powers to take a stubborn stand. Frequently, this has resulted in the colonial powers unwillingness to submit their colonial affairs to international scrutiny. Many administering members have ignored genuine Soviet interest in the fate of non-self-governing territories, and they have considered it as propaganda. As a result valid points have often been overlooked. All the activities of the United Nations with regard to colonialism have been marked by an attempt to minimize Soviet influence in the process of de-colonization. However, this has not been successful. The process of development in the meaning of Chapter XI has been greatly facilitated by the Soviet position, though the Soviet Union did not succeed in creating a duplicate Trusteeship system by proposing extreme changes in the provisions of Chapter XI.

An analysis of the position of Latin American bloc on the question of non-self-governing territories, reveals a wide range of views. The Latin American states have usually supported the anti-colonial sides and a few of them like Mexico, Haiti and Guatemala as well as Cuba and Colombia have even been co-sponsors of certain proposals which purported to increase international supervision over

non-self-governing territories. On the other hand Latin American states like Dominican Republic, and Brazil have frequently taken positions which were similar to those of the colonial powers., The reason seems to be the cultural affinity of certain Latin American countries with Europe. The Latin American stand, on the whole, has been less extreme than that of the Afro-Asian group, because Latin America, with the exception of Haiti, had few ethnic and cultural ties with the peoples of the dependent territories. Moreover, their own colonial experiences and revolutions were quite dissimilar to those of the non-self-governing territories being considered by the United Nations. Emotionally too, the Latin American states were not so deeply involved in the question of non-self-governing territories. The Latin American states, being firm believers in the doctrine of non-intervention, have given undue importance to legal niceties like "Domestic Jurisdiction" and "Integral parts" often used by the administering members. The awareness of cold war implications of the United Nations actions regarding the question of non-self-governing territories has made the Latin American states to follow the United States leadership on this question. The vote of Latin American states, however, have been very crucial in the United Nations decisions concerning non-self-governing territories.

The African-Asian group of members in the United Nations have generally taken an extreme anti-colonial position. However, this has not been a firmly united group. Among its members there have been certain Asian states which have alliances with the West, and this has influenced their position and has persuaded them to take a less demanding stand on the question of non-self-governing territories. The African group has also been divided. The former French Sub-Saharan territories have generally taken a moderate stand, consequently, it has not been very easy for this growing group of members to mobilize their voting potential. However, the great interest of the United Nations in self-determination can be attributed to the fact that the Asian-African states have sufficient votes to get such issues included in the agenda and then mobilize support in favour of resolutions furthering the interests of the non-self-governing territories. It is true that the General Assembly can only pass resolutions, which would amount to a mere expression of attitude. To be effective these resolutions must be implemented and for implementation the resolutions need the support of the major powers. However, this study reveals that the passage of resolutions regarding

non-self-governing territories amounts to a great deal, since they have helped in mobilizing majority opinion in favour of international supervision over non-self-governing territories.

Chapter XI of the United Nations Charter has gained meaning through the Assembly resolutions. The representative of India argued in the Fourth Committee that the differences between the various sub-paragraphs of Article 73e should be softened "by means of conventions" and that "there was no need to amend the Charter."<sup>2</sup> This has been partially accepted and the United Nations members have joined forces to accomplish this. Belgium and on certain occasions France and the United Kingdom resisted this attempt but finally had to accept the decisions of the Assembly. It is hard to determine why in spite of their threats to withdraw from the Committee, and their allegations that the Committee was illegal and unconstitutional, France and the United Kingdom never put their threats into practice. However, an analysis of the United Kingdom's position reveals its eagerness for international co-operation. Though opposed to the transmission of political information it even transmitted this information since its transmission was necessary for understanding the other information given by it. This certainly was an attempt to co-operate with the Assembly. Furthermore, its position on the question of associating indigenous inhabitants in the work of the Committee further strengthens this argument. Besides its desire for international co-operation, the United Kingdom's stand can also be attributed to its idea of good colonial policy, which prompted it at San Francisco to present the initial proposals regarding non-self-governing territories, which finally became Chapter XI of the United Nations Charter.

This process of development in the meaning of Chapter XI brings it closer to Chapters XII and XIII. In conclusion one can say that the majority of the United Nations members have succeeded in their attempts at giving more meaning to the provisions of Chapter XI, and this in some respects has broadened the field of United Nations activities.

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2. UNGAOR, Fourth Co. (3rd Session), p. 10.



## POSTSCRIPT

The year 1960 is very important, since it saw the adoption of General Assembly resolution 1514 (XV). Declaration on the Granting of Independence to Colonial Countries and Peoples, is usually referred to as the Declaration on colonialism. Since its adoption on, December 14, 1960, the United Nations has taken an increasingly active part in liquidating colonialism. This can be regarded as a milestone, because, since its passage, the movement for narrowing the differences between Chapter XI, and Chapters XII and XIII has gained tremendous support. In the course of implementing the provisions of this resolution, it was found necessary to introduce and adopt other resolutions which, in turn, added to the competence of the Committee on Information and the General Assembly. In its resolution 1535 (XV) the Assembly noted that the absence of political and constitutional information on a majority of non-self-governing territories made it impossible to assess the extent of their progress towards the goal of the Charter and considered that a full knowledge of political and constitutional developments was also essential. For the first time, therefore, the Assembly asked for direct political information.

General Assembly resolutions on factors constituted an attempt at defining non-self-governing territories ; however, until 1960, the factors laid down by these resolutions did not amount to an uniform yardstick which could be indiscriminately applied to particular non-self-governing territories. Moreover, the Assembly was empowered to assist in defining the political status of non-self-governing territories. In the ultimate analysis it was the administering power which could give the final verdict on the status of its dependencies. In addition to this, no non-self governing territory could be considered by the Assembly without the prior approval of the administering member concerned. The year 1960 witnessed the adoption of a few resolutions which empowered the newly created subsidiary bodies of the Assembly and the Assembly itself to determine the political status of particular non-self-governing territories by applying the "principles" laid down in its resolution 1541 (XV),

This resolution was a breakthrough, and on it was erected a structure of elaborate design to which the non-self-governing territories had to conform themselves in order to be called self-governing. The Twelve *Principles* enumerated in this resolution were applied to specific Portuguese and United Kingdom territories. This was done in spite of Portugal's protest and its insistence that Angola, Mozambique and Portuguese Guinea were integral parts of Portugal. The United Kingdom also resented the consideration of Southern Rhodesia by the Assembly and the Special Committee, which was created for this purpose. However, their protest did not prevent the Assembly from creating specific committees on Portuguese territories and on Southern Rhodesia. These bodies not only gathered information on these non-self-governing territories, but also heard petitions. The Committee of Seventeen visited adjoining African states for gathering information on Portuguese territories, and then reported to the Assembly on their political status. It is true that a visiting mission could not be sent to Angola or Mozambique against the wishes of Portugal, but the very fact that the Assembly and the Security Council were involved in the question of non-self-governing territories is enough evidence of the growing United Nation's competence in this particular field.

The Committee on Information was abolished and the Committee of Seventeen which was created for the purpose of implementing the Declaration on Colonialism was expanded. It was called the Committee of Twenty-Four. This Committee took up the unfinished task of the Committee on Information. As a matter of fact, this Committee had more significant political functions, and starting from the Seventeenth Session the General Assembly resolutions referred to particular non-self-governing territories by name and asked the administering members to grant them independence as early as possible, since the continuance of dependent territories constituted a grave threat to the peace and security of the world. In the case of Portuguese territories the "use of Sanctions" was threatened and even the Security Council passed certain resolutions urging Portugal to comply with the General Assembly resolutions and especially to help in implementing the Declaration on Colonialism.

It is true that Portugal still regards its dependencies as "Overseas Provinces" and refuses to transmit information on its non-self-governing territories. However, the adoption of the General Assembly Resolution 1514 (XV) without a dissenting vote and the near unanim-

mous support of the later resolutions of the Assembly and the Committee on Colonialism related to Portuguese territories is proof enough that Portugal is losing ground, and that the day is not far off when there would not be any more non-self-governing territories. Since the Assembly and the Committee of Twenty-Four have been focussing the attention on island dependencies in addition to the Portuguese and remaining British dependencies.

To my understanding the question of non-self-governing territories has become much more poignant than that of the Trusteeship Territories. In recent years more international supervision and accountability has been established over the non-self-governing territories than was provided for by the United Charter for the Trusteeship Territories. As I intend to write another book on the role of the United Nations in decolonization with special reference to the non-self-governing territories, I would rather not substantiate my contentions any further. I feel, however, that the elaborate machinery, related to the non-self-governing territories which has come into existence, though not permanently, is significant since this was not provided for by the Charter. I agree with Professor Iris L. Claude, JR. that the United Nations Charter "was the most forward-looking document "as far as the question of colonialism was concerned, The ambiguous provisions of Chapter XI provided enough opportunities to the growing Afro-Asian members to push through the General Assembly resolutions related to non-self-governing territories and thus put pressure on the recalcitrant administering members. This expedited the liquidation of colonialism, increased the competence of the General Assembly and its other subsidiary bodies, and thus enlarged the activities of the United Nations.

The year 1960 saw the increased merging of the two groups of members, namely, the Conservative and the Liberal Groups. The Conservative Group no longer demanded strict adherence to the letter of Chapter XI, but joined the Liberal Group on certain questions, like asking Portugal to transmit information on its dependencies. The process of co-operation between the administering and non-administering members which had started much earlier than 1960, gained force since 1960, and this contributed towards expanding and elaborating the meaning of Chapter XI, which relates to non-self-governing territories. In the ultimate analysis it would not be wrong to say that Chapter XI became an instrument for the furtherance of the cause of de-colonization.

# **Appendices**



## **APPENDIX A**

### **Membership Chart of the Committee on Information From Non-Self-Governing Territories 1946-59.**

#### **Members of the *Ad Hoc* Committee**

Australia, Belgium, Brazil, China, Cuba, Denmark Egypt,  
France, India, Netherlands, New Zealand, Philippines,  
U.S.S.R., United Kingdom, United States, Uruguay.

#### **Members of the Special Committee**

Australia, Belgium, China, Columbia, Cuba, Denmark  
Egypt, France, Netherlands, New Zealand, Nicaragua,  
Sweden, U.S.S.R., United Kingdom, United States.

Australia, Belgium, China, Columbia, Cuba, Denmark,  
Egypt, France, India, Netherlands, New Zealand, Nicaragua,  
Sweden, U.S.S.R., United Kingdom, United States.

Australia, Belgium, Brazil, China, Denmark, Dominican  
Republic, Egypt, France, India, Netherlands, New Zealand,  
Sweden, U.S.S.R., United Kingdom, United States.  
Venezuela.

Australia, Belgium, Brazil, Denmark, Egypt, France, India,  
Mexico, Netherlands, New Zealand, Philippines, Sweden,  
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**APPENDIX B**  
**Original List of Non-Self-Governing Territories**  
**Submitted in 1946**

**Australia**

1. Papua

**Belgium**

2. Belgian Congo

**Denmark**

3. Greenland

**France**

4. French Equatorial Africa
5. French Establishments in India
6. French Establishments in Oceania
7. French Guiana
8. French Somaliland
9. French West Africa
10. Guadeloupe and Dependencies
11. Indochina
12. Madagascar and Dependencies
13. Martinique
14. Morocco
15. New Caledonia and Dependencies
16. New Hebrides (under Anglo-French Condominium)
17. Reunion
18. St. Pierre and Miquelon
19. Tunisia

**Netherlands**

20. Curacao
21. Netherlands Indies
22. Surinam

**New Zealand**

23. Cook Islands
24. Tokelau Islands



**United Kingdom**

25. Aden (Colony and Protectorate)
26. Bahamas
27. Barbados
28. Basutoland
29. Bechuanaland Protectorate
30. Bermuda
31. British Guiana
32. British Honduras
33. Brunei
34. Cyprus
35. Dominica
36. Falkland Islands
37. Fiji
38. Gambia
39. Gibraltar
40. Gilbert and Ellice Island Colony
41. Gold Coast (Colony and Protectorate)
42. Grenada
43. Hong Kong
44. Jamaica
45. Kenya (Colony and Protectorate)
46. Leeward Island
47. Malayan Union
48. Malta
49. Mauritius
50. Nigeria
51. North Borneo
52. Northern Rhodesia
53. Nyasaland
54. Pitcairn Island
55. St. Helena and Dependencies
56. St. Lucia
57. St. Vincent
58. Sarawak
59. Seychelles
60. Sierra Leone
61. Singapore
62. Solomon Islands Protectorate

- 63. Somaliland Protectorate
- 64. Swaziland
- 65. Trinidad and Tobago
- 66. Uganda Protectorate
- 67. Zanzibar Protectorate

**United States of America**

- 68. Alaska
- 69. American Samoa
- 70. Guam
- 71. Hawaii
- 72. Panama Canal Zone
- 73. Puerto Rico
- 74. Virgin Islands

## APPENDIX C

General Assembly Resolution 567 (VI) 18th January 1952.

### ANNEX

**Factors which should be taken into account in deciding whether a territory is or is not a territory whose people have not yet attained a full measure of self-government.**

### INTRODUCTION

1. The territories which are covered by Chapter XI of the Charter are those territories whose people have not yet attained a full measure of self-government. It may be noted that the expression *self-government* is qualified in the Charter by the words *full measure* in the English text, *completement* in the French text, and *plenitud* in the Spanish text.

2. The task of the General Assembly, at present, is to indicate the factors which should be taken into account in determining whether the result of the advancement of the people of any given territory has reached a stage of self-government where it falls outside the scope of Article 73c of the Charter.

3. The condition under which the provisions of Chapter XI of the Charter cease to apply will be that the inhabitants of the territory have attained, through political advancement, a full measure of self-government. The fulfilment of this condition may be achieved by various means, involving in all cases the expression of the free will of the people. The two principal means are (a) the attainment of independence and (b) the union of the territory on a footing of equal status with other component parts of the metropolitan or other country or countries. The extent to which the provisions of Article 73c continue to apply in the case of territories which have become neither independent nor fully integrated within another state but which have already attained a full measure of self-government in their internal affairs is a question which merits further study.

4. The two principal forms of political advancement mentioned in the above paragraph call for the consideration of different factors in determining whether a territory has or has not reached a stage of self-government where it falls outside the scope of Article 73e of the Charter.

5. Accordingly, the General Assembly lists under two separate headings below the factors to be taken into account, stressing that the list cannot be regarded as exhaustive or definitive, and that a single factor or particular combination of factors cannot be regarded as decisive in every case. Whether the peoples of a territory should be regarded as having reached a stage of self-government where there is no longer any obligation to transmit information should be solved in the light of the conditions enumerated under either of the two headings, taking into account the circumstances of each particular case, and this will need to be studied separately.

6. Nevertheless, the General Assembly considers that the essential factors to be taken into account in deciding whether a Non-Self-Governing Territory has attained a full measure of self-government are following :

- (i) *Political advancement* : Political advancement of the population sufficient to enable them to decide upon the future destiny of the territory with due knowledge ;
- (ii) *Opinion of the population* : The opinion of the population of the territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

7. These factors apply both to Non-Self-Governing Territories which have achieved independence and to Non-Self-Governing Territories which have freely united or associated themselves on a footing of equal status with other component parts of the metropolitan or other country or countries. In the latter case, however, the following factors are also essential and should be taken into account :

- (i) *Legislative representation* : Representation without discrimination in the central legislative organs on the same basis as other inhabitants and regions ;
- (ii) *Citizenship* : Citizenship without discrimination on the same basis as other inhabitants.

## I. FACTORS INDICATIVE OF THE ATTAINMENT [OF INDEPENDENCE OR ANY OTHER SEPARATE SYSTEM OF SELF-GOVERNMENT

### A. General

1. *Political advancement* : Political advancement of the population sufficient to enable them to decide upon the future destiny of the territory with due knowledge.

2. *Opinion of the population* : The opinion of the population of the territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

### B. International Status

1. *Independence* : The attainment of independence by the territory, or complete control over its external relations and internal affairs.

2. *Eligibility for membership in international organization* : Eligibility for membership in the United Nations or for membership or associate membership in other international organizations ; representation by delegates selected by the territorial government.

3. *General international relations* : Power to enter into direct relations of every kind with other governments and with international institutions, and to negotiate, sign and ratify international conventions.

4. *Voluntary limitation of sovereignty* : Degree to which the sovereignty of the territory is limited by its own free will when that territory has attained independence or other separate system of self-government.

### C. Internal Self-Government

1. *Territorial government* : Freedom from control or interference by the government of another state in respect of the internal government (legislature, executive, judiciary) and administration of the territory.

2. *Participation of the population* : Effective participation of the population in the government of the territory by means of an adequate electoral and representative system.

3. *Economic and social jurisdiction* : Complete autonomy in respect of economic and social affairs.

## II. FACTORS INDICATIVE OF THE FREE ASSOCIATION (WHETHER IN A FEDERAL OR UNITARY RELATIONSHIP) OF A TERRITORY ON EQUAL STATUS WITH OTHER COMPONENT PARTS OF THE METROPOLITAN OR OTHER COUNTRY

### A. General

1. *Political advancement* : Political advancement of the population sufficient to enable them to decide upon the future destiny of the territory with the knowledge.

2. *Opinion of the population* : The opinion of the population of the territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

3. *Geographical considerations* : Extent to which the relation of the territory with the capital of the central government may be affected by circumstances arising out of their respective geographical positions, such as separation by land, sea or other natural obstacles.

4. *Ethnic and cultural considerations* : Extent to which the population are of different race, language, or religion or have a distinct cultural heritage, interests or aspirations, distinguishing them from the peoples of the country with which they freely associate themselves.

5. *Constitutional considerations* : Association (a) by virtue of the constitution of the metropolitan country or (b) by virtue of a treaty or bilateral agreement affecting the status of the territory, taking into account (i) whether the constitutional guarantees extend equally to the associated territory, (ii) whether there are constitutional fields reserved to the territory, and (iii) whether there is provision for the participation of the territory on a basis of equality in any changes in the constitutional system of the state.

### B. Status

1. *Legislative representation* : Representation without discrimination in the central legislative organs on the same basis as other inhabitants and regions.

2. *Citizenship* : Citizenship without discrimination on the same basis as other inhabitants.

3. *Government officials* : Appointment or election of officials from the territory on the same basis as those from other parts of the country.

### **C. Internal Constitutional Conditions**

1. *Suffrage* : Universal and equal suffrage, free periodic elections by secret ballot, freedom of choice of electoral candidates.

2. *Local rights and status* : Equal rights and status for the inhabitants and local bodies of the territory as enjoyed by inhabitants and local bodies of other parts of the country.

3. *Local officials* : Appointment or election of officials in the territory on the same basis as those in other parts of the country.

4. *Internal legislation* : Complete legislative autonomy of the territory, by means of electoral and representative system, in all matters which, in accordance with the normal terms of association, are, in the case of non-unitary system, not reserved to the central government.

## **General Assembly Resolution 648 (VII) 10th December 1952**

### **ANNEX**

**Factors indicative of the attainment of independence or of other separate systems of self-government.**

#### **First Part**

##### **Factors indicative of the attainment of independence**

###### **A. Internal status**

1. *International responsibility.* Full international responsibility of the territory for the acts inherent in the exercise of its external sovereignty and for the corresponding acts in the administration of its internal affairs.

2. *Eligibility for membership in the United Nations.*

3. *General international relations.* Power to enter into direct relations of every kind with other governments and with international institutions, and to negotiate, sign and ratify international instruments.

4. *National Defence.* Freedom of the territory to enter into arrangements concerning its national defence.

###### **B. Internal self-government**

1. *Form of government.* Complete freedom of the people of the territory to choose the form of government which they desire.

2. *Territorial government.* Freedom from control or interference by the government of another state in respect of the internal government (legislature, executive, judiciary) and administration of the territory.

3. *Economic, social and cultural jurisdiction.* Complete autonomy in respect of economic, social and cultural affairs.

#### **Second Part**

**Factors indicative of the attainment of other separate systems of self-government**



**A. General**

1. *Political advancement.* Political advancement of the population sufficient to enable them to decide upon the future destiny of the territory with due knowledge.

2. *Opinion of the population.* The opinion of the population of the territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

3. *Voluntary limitation of sovereignty.* Degree to which the sovereignty of the territory is limited by its own free will when that territory has attained a separate system of self-government.

**B. International status**

1. *General international relations.* Degree or extent to which the territory exercises the power to enter freely into direct relations of every kind with other governments and with international institutions, and to negotiate, sign and ratify international instruments freely.

2. *Eligibility for membership in the United Nations.*

**C. Internal self-government**

1. *Territorial government.* Nature and measure of control or interference, if any, by the government of another state in respect of internal government, for example, in respect of the following :

*Legislature.* The enactment of laws for the territory by an indigenous body whether fully elected by free and democratic processes or lawfully constituted in a manner receiving the free consent of the population;

*Executive.* The selection of members of the executive branch of the government by the competent authority in the territory receiving consent of the indigenous population, whether that authority is hereditary or elected, having regard also to the nature and measure of control, if any, by an outside agency on that authority, whether directly or indirectly exercised in the constitution and conduct of the executive branch of the government.

*Judiciary.* The establishment of the courts of law and the selection of judges.

2. *Participation of the population.* Effective participation of the population in the government of the territory ; (a) Is there an adequate and appropriate electoral and representative system ? (b) Is this electoral system conducted without direct or indirect interference from a foreign government ?<sup>a</sup>

3. *Economic, social and cultural jurisdiction.* Degree of autonomy in respect of economic, social and cultural affairs, as illustrated by the degree of freedom from economic pressure as exercised, for example, by a foreign minority group which, by virtue of the help of a foreign power, has acquired a privileged economic status prejudicial to the general economic interest of the people of the territory ; and by the degree of freedom and lack of discrimination against the indigenous population of the territory in social legislation and social developments.

**Factors indicative of the free association of a territory with other component parts of the metropolitan or other country.**

#### A. General

##### 1. *Political advancement.* Political advancement of the popu-

<sup>a</sup>For example, the following questions would be relevant :

- (i) Has each adult inhabitant equal power (subject to special safeguards for minorities) to determine the character of the territory ?
- (ii) Is this power exercised freely, *i.e.*, is there an absence of undue influence over and coercion of the voter and of the imposition of disabilities on particular political parties ? Some tests which can be used in the application of this factor are as follows :
  - (a) The existence of effective measures to ensure the democratic expression of the will of the people ;
  - (b) The existence of more than one political party in the territory ;
  - (c) The existence of secret ballot ;
  - (d) The existence of legal prohibitions on the exercise of undemocratic practices in the course of elections ;
  - (e) The existence for the individual elector of a choice between candidates of differing political parties ;
  - (f) The absence of "martial law" and similar measures at election times.
- (iii) Is each individual free to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day ?

lation sufficient to enable them to decide upon the future destiny of the territory with due knowledge.

2. *Opinion of the population.* The opinion of the population of the territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

3. *Geographical considerations.* Extent to which the relations of the territory with the capital of the central government may be affected by circumstances arising out of their respective geographical positions, such as separation by land, sea or other natural obstacles.

4. *Ethnic and cultural considerations.* Extent to which the population are of different race, language or religion, or have a distinct cultural heritage, interests or aspirations distinguishing them from the peoples of the country with which they freely associate themselves.

5. *Constitutional considerations.* Association (a) by virtue of the constitution of the metropolitan country ; or (b) by virtue of a treaty or bilateral agreement affecting the status of the territory, taking into account (i) whether the constitutional guarantees extend equally to the associated territory, (ii) whether there are powers in certain matters constitutionally reserved to the territory or to the central authority, and (iii) whether there is provision for the participation of the territory on a basis of equality in any changes in the constitutional system of the state.

## **B. Status**

1. *Legislative representation.* Representation without discrimination in the central legislative organs on the same basis as other inhabitants and regions.

2. *Citizenship.* Citizenship without discrimination on the same basis as other inhabitants.

3. *Government officials.* Eligibility of officials from the territory to all public offices of the central authority, by appointment or election, on the same basis as those from other parts of the country.

## **C. Internal constitutional conditions**

1. *Suffrage.* Universal and equal suffrage, and free periodic elections, characterized by an absence of undue influence over and

coercion of the voter or of the imposition of disabilities on particular political parties.<sup>b</sup>

2. *Local rights and status.* In a unitary system equal rights and status for the inhabitants and local bodies of the territory as enjoyed by inhabitants and local bodies of other parts of the country in a federal system an identical degree of self-government for the inhabitants and local bodies of all parts of the federation.

3. *Local officials.* Appointment or election of officials in the territory on the same basis as those in other parts of the country.

4. *Internal legislation.* Local self-government of the same scope and under the same conditions as enjoyed by other parts of the country.

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<sup>b</sup>For example, the following tests would be relevant :

- (a) The existence of effective measures to ensure the democratic expression of the will of the people ;
- (b) The existence of more than one political party in the territory ;
- (c) The existence of a secret ballot ;
- (d) The existence of legal prohibitions on the exercise of undemocratic practices in the course of elections ;
- (e) The existence for the individual elector of a choice between candidates of differing political parties ;
- (f) The absence of "martial law" and similar measures at election times ;
- (g) Freedom of each individual to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day,

**General Assembly Resolution 742 (VIII)**

**27 November 1953**

**ANNEX**

**List of Factors**

**FACTORS INDICATIVE OF THE ATTAINMENT OF  
INDEPENDENCE OR OF OTHER SEPARATE SYSTEMS  
OF SELF-GOVERNMENT**

**First Part**

**FACTORS INDICATIVE OF THE ATTAINMENT  
OF INDEPENDENCE**

**A. International status**

1. *International responsibility.* Full international responsibility of the territory for the acts inherent in the exercise of its external sovereignty and for the corresponding acts in the administration of its internal affairs,

2. *Eligibility for membership in the United Nations.*

3. *General international relations.* Power to enter into direct relations of every kind with other governments and with international institutions, and to negotiate, sign and ratify international instruments.

4. *National defence.* Sovereign right to provide for its national defence.

**B. Internal self-government**

1. *Form of government.* Complete freedom of the people of the territory to choose the form of government which they desire.

2. *Territorial government.* Freedom from control or interference by the government of another state in respect of the internal government (legislature, executive, judiciary, and administration of the territory).

3. *Economic, social and cultural jurisdiction.* Complete autonomy in respect of economic, social and cultural affairs.

## Second Part

FACTORS INDICATIVE OF THE ATTAINMENT OF  
OTHER SEPARATE SYSTEMS OF SELF-GOVERNMENT

## A. General

1. *Opinion of the population.* The opinion of the population of the territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

2. *Freedom of choice.* Freedom of choosing on the basis of the right of self-determination of people between several possibilities including independence.

3. *Voluntary limitation of sovereignty.* Degree of evidence that the attribute or attributes of sovereignty which are not individually exercised will be collectively exercised by the larger entity thus associated and the freedom of the population of a Territory which had associated itself with the metropolitan country to modify at any time this status through the expression of their will by democratic means.

4. *Geographical considerations.* Extent to which the relations of the non-self-governing territory with the capital of the metropolitan government may be affected by circumstance arising out of their respective geographical position, such as separation by land, sea or other natural obstacles ; and extent to which the interests of boundry states may be affected, bearing in mind the general principle of good-neighbourliness referred to in Article 74 of the Charter.

5. *Ethnic and cultural considerations.* Extent to which the populations are of different race, language or religion, or have a distinct cultural heritage, interests or aspirations, distinguishing them from the peoples of the country with which they freely associate themselves.

6. *Political advancement.* Political advancement of the population sufficient to enable them to decide upon the future destiny of the territory with due knowledge.

## B. International status

1. *General international relations.* Degree or extent to which the territory exercises the power to enter freely into direct relations of every kind with other governments and with international institu-

tions, and to negotiate, sign and ratify international instruments freely. Degree or extent to which the metropolitan country is bound through consitutional provisions or legislative means, by the freely expressed wishes of the territory in negotiating, signing and ratifying international conventions which may influence conditions in the territory.

2. *Change of political status.* The right of the metropolitan country or the territory to change the political status of that territory in the light of the consideration whether that territory is or is not subject to any claim or litigation on the part of another state.

3. *Eligibility for membership in the United Nations.*

### C. Internal self-government

1. *Territorial Government.* Nature and measure of control or interference, if any, by the government of another state in respect of the internal government, for example, in respect of the following :

*Legislature.* The enactment of laws for the territory by an indigenous body whether fully elected by free and democratic processes or lawfully constituted in a manner receiving the free consent of the population ;

*Executive.* The selection of members of the executive branch of the government by the competent authority in the territory receiving consent of the indigenous population, whether that authority is hereditary or elected, having regard also to the nature and measure of control, if any, by an outside agency on that authority whether directly or indirectly exercised in the constitution and conduct of the executive branch of the government ;

*Judiciary.* The establishment of courts of law and the selection of judges.

2. *Participation of the population.* Effective participation of the population in the government of the territory : (a) Is there an adequate and appropriate electoral and representative system ? (b) Is

this electoral system conducted without direct or indirect interference from a foreign government ?<sup>c</sup>

3. *Economic, social and cultural jurisdiction.* Degree of autonomy in respect of economic, social and cultural affairs, as illustrated by the degree of freedom from economic pressure as exercised, for example, by a foreign minority group which, by virtue of the help of a foreign Power, had acquired a privileged economic status prejudicial to the general economic interest of the people of the territory ; and by the degree of freedom and lack of discrimination against the indigenous population of the territory in social legislation and social developments.

### Third Part

#### FACTORS INDICATIVE OF THE FREE ASSOCIATION OF A TERRITORY ON EQUAL BASIS WITH THE METROPOLITAN OR OTHER COUNTRY AS AN INTEGRAL PART OF THAT COUNTRY OR IN ANY OTHER FORM

<sup>c</sup>For example, the following questions would be relevant :

- (i) Has each adult inhabitant equal power (subject to special safeguards for minorities) to determine the character of the government of the territory ?
- (ii) Is this power exercised freely, *i.e.*, is there an absence of undue influence over and coercion of the voter and of the imposition of disabilities on particular political parties ?

Some tests which can be used in the application of this factor are as follows :

- (a) The existence of effective measures to ensure the democratic expression of the will of the people ;
- (b) The existence of more than one political party in the territory ;
- (c) The existence of a secret ballot ;
- (d) The existence of legal prohibitions on the exercise of undemocratic practices in the course of elections ;
- (e) The existence for the individual elector of a choice between candidates of differing political parties ;
- (f) The absence of "martial law" and a similar measures at election times ;
- (iii) Is each individual free to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day ?



## A. General

1. *Opinion of the population.* The opinion of the population of the territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

2. *Freedom of choice.* The freedom of the population of a Non-Self-governing Territory which has associated itself with the metropolitan country as an integral part of that country or in any other form to modify this status through the expression of their will by democratic means.

3. *Geographical considerations.* Extent to which the relations of the territory with the capital of the central government may be affected by circumstances arising out of their respective geographical positions, such as separation by land, sea or other natural obstacles. The right of the metropolitan country or the territory to change the political status of that territory in the light of the consideration whether that territory is or is not subject to any claim or litigation on the part of another State.

4. *Ethnic and cultural considerations.* Extent to which the population are of different race, language or religion, or have a distinct cultural heritage, interests or aspirations, distinguishing them from the peoples of the country with which they freely associate themselves.

5. *Political advancement.* Political advancement of the population sufficient to enable them to decide upon the future destiny of the territory with due knowledge.

6. *Constitutional considerations.* Association by virtue of a treaty or bilateral agreement affecting the status of the territory, taking into account (i) whether the constitutional guarantees extend equally to the associated territory, (ii) whether there are powers in certain matters constitutionally reserved to the territory or the central authority, and (iii) whether there is provision for the participation of the territory on a basis of equality in any changes in the constitutional system of the State.

## B. Status

1. *Legislative representation.* Representation without discrimination in the central legislative organs on the same basis as other inhabitants and regions.

**2. Participation of the population.** Effective participation of the population in the government of the territory: (a) Is there an adequate and appropriate electoral and representative system? (b) Is this electoral system conducted without direct or indirect interference from a foreign government.

**3. Citizenship.** Citizenship without discrimination on the same basis as other inhabitants.

**4. Government officials.** Eligibility of officials from the Territory to all public offices of the central authority, by appointment or election, on the same basis as those from other parts of the country.

### C. Internal constitutional conditions

**1. Suffrage.** Universal and equal suffrage, and free periodic elections, characterized by an absence of undue influence over and coercion of the voter or of the imposition of disabilities on particular political parties.<sup>4</sup>

**2. Local rights and status.** In a unitary system equal rights and status for the inhabitants and local bodies of the territory as enjoyed by inhabitants and local bodies of other parts of the country, in a federal system an identical degree of self-government for the inhabitants and local bodies of all parts of the federation.

**3. Local officials.** Appointment or election of officials in the territory on the same basis as those in other parts of the country.

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<sup>4</sup>For example, the following tests would be relevant :

- (a) The existence of effective measures to ensure the democratic expression of the will of the people ;
- (b) The existence of more than one political party in the territory ;
- (c) The existence of a secret ballot ;
- (d) The existence of legal prohibitions on the exercise of undemocratic practices in the course of elections ;
- (e) The existence for the individual elector of a choice between candidates of differing political parties ;
- (f) The absence of "martial law" and similar measures at election times ;
- (g) Freedom of each individual to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day.

4. *Internal legislation.* Local self-government of the same scope and under the same condition as enjoyed by other parts of the country.

5. *Economic, social and cultural jurisdiction.* Degree of autonomy in respect of economic, social and cultural affairs, as illustrated by the degree of freedom from economic pressure as exercised, for example, by a foreign minority group which, by virtue of the help of a foreign power, has acquired a privileged economic status prejudicial to the general economic interest of the people of the territory, and by the degree of freedom and lack of discrimination against the indigenous population of the territory in social legislation and social development.

**Abbreviations**

A few documents which have been frequently cited in ~~this study~~ have been abbreviated.

The following abbreviations are used in citation of United Nations Documents:

UNGAOR—United Nations General Assembly Official Records

UNCIO—United Nations Conference on International Organization

Doc—Document

GA—General Assembly

Fourth Co.—Fourth Committee

Sub. Co.—Sub-Committee

UN—United Nations



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# INDEX

- Ad hoc* Committee, Creation, 30
- Ad hoc* Committee on Factors, 150, 151
- Allies, 6, 7
- Allied powers, 8
- Article 22, of League Covenant, 6, 14, 24
  - .. 23 b of League Covenant, 6
- Article 2 paragraph 7 of the UN Charter, 25, 31
  - .. 18 paragraph 7 of the UN Charter 25, 31, 128
  - .. 22 paragraph 7 of the UN Charter, 25, 31, 28
- Article 73 of the UN Charter, 1, 5, 11, 22, 24, 25-26, 30-31, 33-34, 56, 58-59, 61, 73, 109, 111, 112, 140, 144
  - .. 74 of the UN Charter, 2, 120, 140
- Article 76 b of the UN Charter, 112
  - .. 87 b of the UN Charter, 93
- Atlantic Charter, 7, 8
- Atlantic Meeting, 7
- Axis powers, 6, 21
- Belgian Thesis, 117-21
- British Empire, 13
- British Foreign Secretary, 10, 11
- Cessation of information, 3, 143
  - on Netherlands Antilles and Surinam, 150-7
  - on Puerto Rico, 157-61
  - on Greenland, 161-3
  - on Alaska and Hawaii, 163-5
- Chapter XI, 1-6, 15-26, 29, 30-32, 36, 66, 94, 117, 128, 138, narrowing the difference between Chapters XI, XII and XIII, 168-71
- Chapters XII and XIII, 2-6, 24-25, 31-32, 53
- Chapters XII and XIII, assimilation, 54, 93, 115
- Charter, 1-3, 11-13, 15-16, 18, 20-22, 25-26, 28-30, 32-35, 68
- Charter of the Kingdom of the Netherlands, 154
- Churchill, Winston, 7, 8-9, 13
- Claude, Jr., Inis L., 121, 184
- Committee on Information, establishment of, 39, 66, 124, 129
- Cessation of information, 62, 96-97, 99, 116, 124, 150-151
- Committee on Information, Competence of, 53, 55, 61, 68-69, 76, 89, 94-95, 149, 160, 167, 177
  - .. composition of, 46-52
  - .. continuation of, 40-42
  - .. Denmark's withdrawal from, 162
  - .. functions of, 77
  - .. functional experts, 52, 53,
  - .. indigenous inhabitants, 53-84
  - .. permanency, 34, 41-42, 46, 54,
  - .. regional recommendations, 86-90
  - .. study of factors, 103-6
  - .. transmission of information, 77-86
  - .. abolition, 185
- Committee of Seventeen, 185
- Committee of Twenty-Four, 185
- Declaration by the United Nations on National Independence, 10
- Declaration regarding non-self governing territories, 1, 6, 19
- Department of State, 8
- Dependent peoples, 5
  - .. territories, 5
- Dumbarton OAKS Conference, 11
  - .. Proposals, 11, 16
- Economic and Social Council, 67
- Eden, Sir Anthony, 10
- Factors, 97-117, 130, 141
  - Ad hoc* Committee on Factors, 150-1
- Five-power Consultative Group, 17, 18
- Functional experts, 52-53
- General Assembly, 3
  - .. resolution 9(1), 26
  - .. 66(1), 30
  - .. 332 (IV), 36
  - .. 646 (VII), 39
  - .. 933 (X), 42
  - .. 566 (VI), 47
  - .. 647 (VIII), 49
  - .. 744 (VIII), 49
  - .. 745 (VIII), 49, 52

<p> " " " 1466 (XIV), 51  " " " 333 (IV), 52  " " " 144 (II), 61, 63, 68  " " " 222 (III), 62, 146, 149  " " " 327 (IV), 64, 68  " " " 637B (VI), 68  " " " 848, (IX), 70  " " " 1053 (XI), 71  " " " 1468 (XIV), 73  " " " 143 (II), 81  " " " 221 (III), 81  " " " 551 (VI), 84  " " " 847 (XI), 89  " " " 930 (X), 86  " " " 334 (IV), 98, 101, 137  " " " 567 (VI), 99, 110  " " " 116-18, 122  " " " 648 (VII), 99, 116,  122, 127, 129, 170  " " " 742 (VIII), 99,  129-30, 137, 160  " " " 748 (VIII), 132, 160  " " " 1467 (XIV), 137, 138  " " " 448 (V), 149  " " " 568 (VI), 150  " " " 747 (VIII), 154  " " " 850 (IX), 166  " " " 945 (X), 156  " " " 1051 (XI), 168  " " " 1514 (XV), 184  " " " 1535 (XV), 184  " " " 1541 (XV), 184  " " " 1654 (XVI), 184  Goodrich and Hambro, 22  Goodwin Geoffrey L., 14, 15  Hull, Cordell 8, 10, 11  Human rights, 67  Indigenous inhabitants, membership,  46-52  Implementing Chapter XI, 70  International Supervision of non-self-  governing territories, 172 Soviet  Union's attempt at establishing,  180  Intermediate time-tables, 74  Japanese Mandated Islands, 9  Kelsen, Hans, 119  League of Nations, 2, 5-7, 12  " " " Covenant, 14, 17,  119  Membership of the United Nations,  1, 113  Military Department, United States,  9 </p>	<p> Non-Administering States, 2  Non-self-governing, 20  " " peoples, 7, 8, 16  " " territories, 2-3,  5-7, 9, 11-16, 18-  24, 26, 30-32, 36  " " territorial inhabi-  tants, 49  " " territories, initial  list, 97-98  " " progress 71-72  " " withholding in-  formation on, 98  Peace Treaties, 5  Petitions, 2, 92-94  Political information, 3, 55-61, 72,  75, 109  Portugal and Spain, 131, 133  Portuguese territories, 131-42  Principles, 184  Process of assimilation, 176  Proposed study of principles, 136  Puerto Rico, cessation of informa-  tion on, 157-61  Puerto Rican Independence Party,  93  Questionnaire, Trusteeship territories  2, 77, 84-85, 94  Roosevelt, F.D., 7-9, 10, 12  Ryckmans, Pierre, 119  Sanctions, 67  San Francisco, 3, 14, 59, 171  San Francisco Conference, 13, 16, 32,  120  Second World War, 2, 15  Secretary General, 2, 22, 26-28, 30-32,  58, 71-72, 79, 81, 99, 131  Secretary of State, United States, 8,  11  Security Council, 2  Self-determination, 67-68, 70  Self-government, 1, 14, 16-18, 21-22,  70, 74, 104  Self-governing institutions, 64  Spain, Communication from, 139  Spanish dependencies, 131-133, 139,  142  Sponsoring nations, 5, 12, 16  Standard Form, 63-64, 77-78, 86  Stettinius, 12  Sub-paragraph "a", of Article 73 of  UN Charter, 56, 140  " " "b", of Article 73 of  UN Charter, 56  " " "e", of Article 73 of </p>
--	--

- UN Charter, 20, 22, 24, 56, 61, 139, 140
- Transmission of information, 3
  - „ „ political information 55-67, 77
  - voluntary, 58, 70-73, 75-76
- Trusteeship, 2, 6, 8, 11-16
- Trusteeship, Council, 2, 24, 26-27 32
- Trusteeship, System, 2, 12, 16-18, 32, 128
- Trust Territories, 2-3, 6, 26, 32
- United Nations, 2-4, 6, 9-11, 13-14, 18-19, 21-22, 24, 26, 29-33
  - „ „ „ attempt to define N.S.G.T., 99-117, 122-130, 133-42
- United Nations, Charter, 5-6, 13, 16, 17, 22-25, 29, 32, 119
  - „ „ „ Members, 30, 35
  - „ „ „ Member-States, 2
- United States Department of State, 11
- Visiting Missions, 3, 6, 90-92, 166
- Washington, 10
- Washington D.C., 11
- Welles, Sumner, 7
- Working Paper, 16-18
- Yalta Conference, 12-13